



SASKATCHEWAN

**REPORT**  
**OF THE**  
**OMBUDSMAN**

PERIOD 1 JANUARY 1985 – 31 DECEMBER 1985

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# THIRTEENTH ANNUAL REPORT

"The Ombudsman's Powers, far from being formidable, are in reality quite limited. The Ombudsman may only investigate, recommend and publicize. His recommendations are binding on no one; he has no power to overrule the decisions of government officials. Nor can he bring a punitive action for official malfeasance. Clearly, he cannot impede the functioning of those with whom he deals.

In my view, the phrase "a matter of administration" encompasses everything done by governmental authorities in the implementation of government policy. I would exclude only the activities of the legislature and the courts from the Ombudsman's scrutiny."

*B.C. Dev. Corp. v. Friedmann  
(S.C.) [1985] 1 W.W.R. 193, per  
Dickson, C. J., at p. 216.*

OMBUDSMAN

2310 Scarth Street Regina, Canada S4P 3V7 (306) 565-6211



SASKATCHEWAN

The Honourable The Speaker  
of the Legislature  
Province of Saskatchewan  
Legislative Buildings  
REGINA, Saskatchewan

Dear Mr. Speaker:

It is my duty and privilege to submit to you and to the Legislature,  
the thirteenth Annual Report of the Saskatchewan Ombudsman,  
submitted in accordance with the provisions of subsection (1) of  
section 30 of *The Ombudsman Act*.

Yours sincerely

Ombudsman

**PART I**

**HIGHLIGHTS — 1985**



## **PART I**

### **HIGHLIGHTS — 1985**

This is my ninth annual report and likely my last because my second five-year term concludes shortly after the end of the next reporting year.

This report is the thirteenth since *The Ombudsman Act* was passed in 1972 and covers the calendar year 1985.

### **A SPECIAL THANKS**

For the past nine years, the easiest part of my job has involved my dealings with the public and the public service. This continued in 1985 and I am grateful. Subject to occasional exceptions, I have found public servants to be both competent and concerned about the public they serve. Public servants are deserving of respect from the public and support from their political masters. Unfortunately, this is a subject dominated by folk myths and too often the respect and support they deserve is missing. In 1985, our working relationship with the Department of Labour showed a marked improvement. During the past year, Sask-Power, The Workers' Compensation Board and the Public Employees Benefits Agency also continued to demonstrate some very real sensitivity in its contacts with the public.

### **A COMMENT ON THE LAST NINE YEARS — AN OVERVIEW AND SOME RECOMMENDATIONS**

The literature on the subject of 'Ombudsman' abound with references to the various relationships that have to be balanced by an Ombudsman, i.e. — the public, the public service, the legislature, the media and the government.

After nine years in this position I feel somewhat expert on the joys and frustrations of this unique kind of employment and its various relationships. In the hope that my observations and recommendations will be of interest to the government and of some direct benefit to my successor, I have devoted Part II of this report to my assessment of our strengths and weaknesses with regard to these relationships. In Part II, I characterize the working relationships of the office in the following terms:

- very good, with the public;
- good, with the public service;
- in need of some structural improvements, with the legislature;
- very good, with the media;
- needing improvement, with the government.

#### **SOME UNRESOLVED CASES AND ISSUES**

In my last two annual reports special attention was paid to the adequacy of the social assistance, day care and child care systems of the province. This year is no exception. However, as there are a large number of unresolved issues on other subjects, Part III of this report is devoted to more than just social services issues. My comments on this subject include cases where individuals have been wrongly denied a remedy, and broader issues involving a variety of government programs, policies and legislation that are creating some genuine hardship for the Saskatchewan public.

#### **OUR LAST 'STAR-RATING' EXERCISE**

Since 1980, my reports have included the collective view of my staff and myself on the quality of the services being provided to the Saskatchewan public by the major departments and agencies. This has been continued this year at page 60.

#### **ANOTHER YEAR OF STAGGERING INCREASE AND STILL NO RELIEF IN SIGHT**

I operate an office which is currently very popular with the public and which receives complaints of all kinds from all parts of the province at an increased rate every year. I described the situation in the following terms in last year's annual report:

##### **"Staggering Increases and No Relief in Sight**

We received more complaints against the provincial government in 1984 than ever before, with 208 more complaints bringing an increase of 17.9% over 1983. Indeed, there has been a steady upward trend since 1979. For example, complaints against the provincial government have increased

by 52% (from 901 in 1979 to 1,370 in 1984) since I was last able to add to my investigative staff. Even temporary investigative assistance has been denied by the Department of Finance and the government during the past several years."

1985 was the busiest year this office has ever had. Records were set for the total complaints received and for every category of those complaints. The 3,392 persons who lodged complaints represented an overall increase of 719 complaints or 26.99%, over 1984. The 1,782 persons who brought non-jurisdictional complaints and who received referrals to more appropriate remedies represents an increase of 479 or 36.8% over 1984. More importantly, the 240 additional persons who lodged complaints against the provincial government represented an increase of 17.5% in the real workload of the office over the record set last year. The pressure was on as the complaints against the provincial government occupy virtually all of our scarce time and resources.

We started the year with a case backlog of about 700 investigative files and ended with almost 800 in spite of the staff closing more files than ever before. Remarkably, they increased their productivity by closing 275 more files than in 1984. This represents an increase in productivity of almost 22% but it was still not enough to hold our own.

Mindful of the need for restraint, my budget proposal for 1986 did not seek additional permanent staff but only sought one year's worth of dollars to enable us to contract out for the investigative help we need to reduce the backlog. Unless this modest request is accepted, the executive branch is dictating the scope of the services we can provide and the rate at which we can provide them. These decisions are the responsibility of the legislature, *The Ombudsman Act* and the Ombudsman and not that of government. This is a direct attack on the independence of this office and the assistance we can provide to the public. The following materials reproduce the submission I made to Treasury Board in early 1986 in an attempt to obtain 'any' additional resources. It was not successful. Unfortunately we lost an invaluable position and received no relief whatsoever.

**"A COMMENT TO TREASURY BOARD  
RE: THE REQUEST FOR ADDITIONAL (TEMPORARY)  
RESOURCES**

**SUPPORTING DOCUMENTATION**

1. Monthly intake of complaints against the provincial government since 1976 (Schedule "A").
2. Annual intake of complaints for the past four years according to category of complaint (Schedule "B").
3. A record and graph for the period 1976 to 1985 demonstrating the increased backlog of investigative files (Schedule "C").

**COMMENT**

— Schedule "A" documents steady increases in complaint volume for the past decade and dramatic increases in the complaints against the provincial government during the past four years. Average monthly complaints have gone from 85.4 per month in 1981 to 134.1 in 1985. During this time I have only been able to obtain approval for one clerical position and have entirely lost our dollars to hire temporary investigative assistance.

— Schedule "B" documents an overall increase in complaint volume in the area of 20% since 1982, but more importantly, breaks out the complaints by category to show that there has been a 42.9% increase in the real workload of the office, i.e. — complaints against the provincial government. This segment of our work accounts for almost all of our time and resources. The numbers for 1985 are a record in every category for the Saskatchewan Ombudsman's Office.

— Schedule "C" needs to be given some careful consideration. It is not only a record of the staff's exceptional annual performance in closing files but also is a record of our ever increasing backlog of investigational files. The backlog is of crushing proportions in that it involves a year-end total of 770 outstanding investigational files. This means that at any given point in time, each of my investigators have one-and-a-half years of work even if we stopped receiving complaints. It also means that our complainants must, on average,

wait a year-and-a-half before a start can even be made on the investigation of his or her complaint. While priorities are affixed to obvious cases of urgency, there is a limit to the priorities that can be assigned and many cases that should have a higher priority cannot receive it because of the practical limitations on staff and staff time.

It can be seen from Schedule "C" that because of much hard work and nearly constant internal adjustments, the staff can "almost" close enough files to match our annual intake, e.g. — we were one investigator/year (100 files) short in 1984 and two-thirds of this amount in 1985. What the investigative staff *cannot* hope to do is to meet current backlog of 770 files. What is needed is temporary investigative dollars to enable us to contract for these services rather than additional permanent staff. In the short term, this would enable us to reduce the backlog and in the longer term, the availability of temporary dollars would provide some flexibility during times of high complaint volume.

— My investigators have to meet annual quotas that are as high (if not higher) as in any provincial Ombudsman's office. Closing one hundred investigative files is an absolute maximum for any Ombudsman Investigator and my investigative staff cannot do better. They already donate a considerable amount of their personal (and unpaid) time to the task.

— There is also some need to rebut the Budget Bureau Report observation about the need for screening procedures. These procedures are in place and to the extent possible under *The Ombudsman Act*, adjustments have been made on one or more occasions in every year since 1980. For example, while we received 1,610 complaints against the provincial government in 1985 only 612 of these complaints were assigned for investigation. The balance of these complainants were put to advocates and their appeal rights, other remedies or resolved through intervention and mediation by efforts on our part that did not involve the time of the investigative staff.

Perhaps it would be better to use an example to illustrate the dilemma. Faced with wildly escalating intake in 1984 and early 1985, our screening procedures and our intake policy were again reviewed. We receive something in the order of 200 to 225 S.G.I. complaints each year and two-thirds of these involved motor vehicle insurance issues. Last spring, a decision was made (with considerable reservation) to put almost all of these complainants to their legal reme-

dies if they approached us while they still had legal remedies. This reduced our S.G.I. investigations by something in the order of 100 to 125 files, but the change also had a downside.

My authority in *The Ombudsman Act* for declining investigations in this area depends on the "adequacy" of other remedies. Referring persons unaided to Small Claims Court or to the private bar is not always in this category. Part of the rationale for having an Ombudsman was to provide a service to the public vis-a-vis the government and its agencies where the size of the claim was such that it was uneconomic for the public to obtain legal counsel or for legal counsel to agree to be retained. Additionally, there are many examples of where a person's legal remedies are either too slow or too expensive given the magnitude of the issues in dispute. While I could rationalize this decision because I have "not quite" defaulted on my statutory obligations, there is no doubt but that the decision was undesirable from the public's point of view and was dictated by the limited resources the government has been prepared to provide through the budget process. There is an abundance of similar examples and sooner or later the public is going to have to be told with some clarity and emphasis that the mandate of the Ombudsman is being restricted and determined by the executive branch of government through the budget process and not by the legislature, *The Ombudsman Act* or the Ombudsman.

#### SUMMARY

The public's resort to the Ombudsman's office is at an all-time high. The investigative case backlog is at an unacceptable level.

In these circumstances, the investigators can spend as much time explaining to complainants why they are not investigating their files as they do conducting investigations. While our efforts to match our closings with our intake has narrowed the shortfall, the Department of Finance rather than *The Ombudsman Act* is dictating the scope of the services being offered to the public. Additionally, my request for additional temporary resources is a reasonable one and statistically sound. Accordingly, I am asking Treasury Board to support and approve one year's worth of temporary investigative dollars for the fiscal year 1986/87."

Schedule "A"

MONTHLY INTAKE OF COMPLAINTS AGAINST GOVERNMENT

1976 - 1985

|                      | 1976 | 1977 | 1978  | 1979 | 1980 | 1981  | 1982  | 1983  | 1984  | 1985  |
|----------------------|------|------|-------|------|------|-------|-------|-------|-------|-------|
| Jan.                 | 66   | 63   | 45    | 104  | 72   | 46    | 52    | 70    | 84    | 103   |
| Feb.                 | 49   | 66   | 74    | 75   | 52   | 70    | 78    | 89    | 87    | 142   |
| March                | 68   | 63   | 90    | 70   | 49   | 82    | 150   | 112   | 128   | 138   |
| April                | 81   | 72   | 108   | 90   | 65   | 90    | 130   | 91    | 111   | 151   |
| May                  | 70   | 61   | 99    | 96   | 83   | 120   | 72    | 120   | 106   | 180   |
| June                 | 53   | 63   | 117   | 74   | 107  | 54    | 97    | 118   | 116   | 148   |
| July                 | 60   | 45   | 94    | 74   | 103  | 95    | 103   | 78    | 103   | 133   |
| Aug.                 | 45   | 60   | 63    | 62   | 72   | 28    | 69    | 96    | 102   | 123   |
| Sept.                | 59   | 55   | 66    | 47   | 65   | 90    | 74    | 89    | 102   | 122   |
| Oct.                 | 49   | 143  | 108   | 113  | 62   | 102   | 83    | 78    | 162   | 120   |
| Nov.                 | 64   | 98   | 104   | 71   | 86   | 77    | 99    | 112   | 132   | 109   |
| Dec.                 | 65   | 46   | 81    | 25   | 63   | 171   | 120   | 109   | 117   | 141   |
| Annual Total         | 729  | 835  | 1,049 | 901  | 879  | 1,025 | 1,127 | 1,162 | 1,370 | 1,610 |
| Average Monthly/Year | 60.8 | 69.6 | 87.4  | 75.1 | 73.3 | 85.4  | 93.9  | 96.8  | 114.2 | 134.2 |

- ☐ Fewer than 100 complaints/month.  
☒ 100-125 complaints/month.  
☐ More than 125 complaints/month.

Schedule "B"

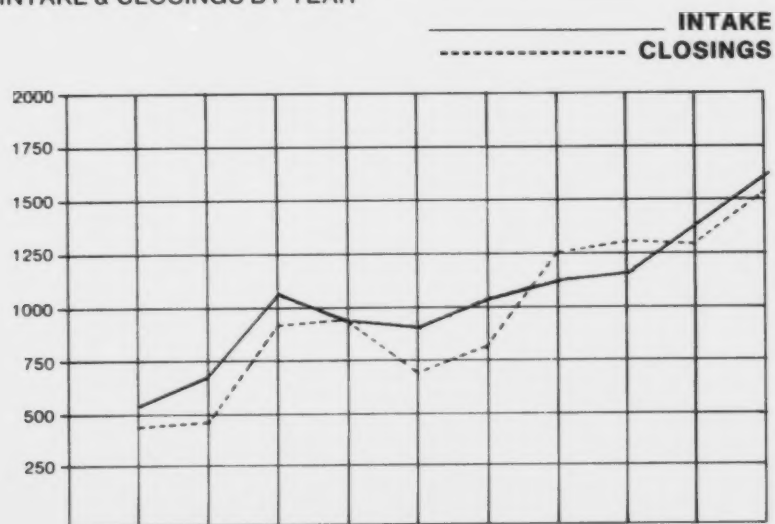
SUMMARY OF ANNUAL COMPLAINTS

- 1982 to 1985 INCLUSIVE

| Category of Complaint                         | 1982  | 1983  | 1984  | 1985  | % Increase Since 1982 |
|-----------------------------------------------|-------|-------|-------|-------|-----------------------|
| Complaints against Gov't. (Work)              | 1,127 | 1,162 | 1,370 | 1,610 | 42.9%                 |
| Non-jurisdictional complaints (referral work) | 1,704 | 1,403 | 1,303 | 1,782 | 4.6%                  |
| TOTAL COMPLAINTS                              | 2,831 | 2,565 | 2,673 | 3,392 | 19.8%                 |

### Schedule "C"

#### COMPLAINTS AGAINST GOVERNMENT — INTAKE & CLOSINGS BY YEAR



|           | 1976 | 1977 | 1978  | 1979 | 1980 | 1981  | 1982  | 1983  | 1984  | 1985  | TOTALS |
|-----------|------|------|-------|------|------|-------|-------|-------|-------|-------|--------|
| INTAKE    | 514  | 644  | 1,049 | 901  | 879  | 1,025 | 1,127 | 1,162 | 1,370 | 1,610 | 10,281 |
| CLOSINGS  | 401  | 423  | 886   | 903  | 732  | 820   | 1,253 | 1,282 | 1,268 | 1,543 | 9,511  |
| SHORTFALL | -113 | -221 | -163  | +2   | -147 | -205  | +126  | +120  | -102  | -67   | -770*  |

\*This number represents an investigative backlog at any point in time equal to 1.5 years of work for each of my 5 investigators."

### **SIGNIFICANT INCREASES AND SHIFTS IN COMPLAINT VOLUME IN 1985**

Complaints against the provincial government increased by 240 in 1985 (17.5%) and almost all of this increase (228) is attributable to four major areas of our work.

In last year's annual report, I predicted continued increases in social assistance work because of the impact of "welfare reform" and this proved to be the case in 1985. We experienced a 46.3% increase in social assistance complaint cases in 1984 (to a total of 253 complaints) after the introduction of welfare reform and another increase of 25.3% in 1985 (to a total of 317 complaints). This constitutes a 77% increase in social assistance complaints to my office since the introduction of this program. These statistics, and our investigations, disclose real hardship for persons who find it necessary to attempt to survive on social assistance and I believe that the government must re-assess the more unfortunate consequences on the poor caused by this program. My concerns are set out in more detail at page 52.

We also experienced, for the first time in a number of years, a significant increase in 1985 in complaints against S.G.I. In the three previous years, S.G.I. complaints were quite static at 208, 211 and 220 complaints annually. In 1985 we received 280 complaints against the Corporation for an increase of 27.3%. Our investigations over the past two years had disclosed a substantive number of changes in their adjusting rules and an increased tendency to cancel or not renew policies if persons had an unfortunate number of claims. This tightening-up of S.G.I. systems now appears to be impacting on the complaints we receive about the Corporation.

If anything, our complaints involving health issues have been static or declining for many years until 1985. The trend was reversed in 1985 when we received a 72.9% increase in these kinds of complaints. As the numbers are still relatively small (64 complaints), no real conclusions can be drawn until we have another year's experience.

In last year's report, I identified overcrowding in the correctional centres as a major problem for the system and reported an increase in inmate complaints of almost 45%. This year's increase was somewhat smaller at about 20% (to a record total of 170 complaints) but again emphasizes my earlier concern about overcrowding and its consequences.

In 1985 there were also some encouraging decreases in some areas of our work but it is a little early to determine if there is a trend in this regard. We encountered a slight drop in complaints against W.C.B., S.H.C. and Sask-Power in 1985.

### **OUTREACH**

For the second year, I opened markedly fewer temporary offices in communities outside of Regina and Saskatoon than had been our practise in the past, i.e. — 20 to 30 meetings. In 1985, we were only in several northern communities, in Moose Jaw for a day and three days in the Battlefords. It can be seen from our experience over the last two years that we have exploded the myth that this kind of community work was the proximate cause of the increased public demand for our services. While we have never done less community work, our complaint volumes have never been higher! Our community effort literally could not take place in 1985 even though there was a clear need to stay in contact with the very many communities and organizations located at the peripheries of our province. The reason relates directly to inadequate government financial support for the office. The government cannot have it both ways.

As I have no intention of leaving this office with our visibility in outlying communities in jeopardy, meetings have been scheduled in 1986 in at least eight northern communities and in Melfort, Carrot River, Hudson Bay, Moosomin, Esterhazy, Carlyle, Weyburn, Estevan, Meadow Lake, Lloydminster, Leader, Shaunavon and other locations.

The introduction of toll-free lines to each of my offices has been an unqualified success. Not only are we averaging about 300 calls from the public per month, but we have also been able to hold or reduce our long distance charges in most months from what it had been before we introduced the toll-free lines.

### **BUDGET**

The budget for the office approved for the fiscal year 1985-86 was less than in 1984-85. The following amounts were approved for the last 3 fiscal years.

|                                          | 1983-84 | 1984-85 | 1985-86 |
|------------------------------------------|---------|---------|---------|
| Salaries —                               | 537,860 | 552,860 | 553,890 |
| Investigator and other travel expenses — | 16,860  | 18,100  | 15,410  |
| Other contractual services               | 79,450  | 77,860  | 76,710  |
| Material, supplies and equipment —       | 6,870   | 7,320   | 7,780   |
|                                          | 641,140 | 656,140 | 653,790 |

#### OMBUDSMAN REPORTS AND RECOMMENDATIONS

In 1985, there were 91 occasions when substantiated complaints were not resolved at an early stage and where formal Ombudsman recommendations were necessary. The current status of these recommendations to departments, ministers and cabinet since January 1982 are as follows:

#### Recommendations/year/result — December 31, 1985

|           | Total | Accepted | Rejected | With-drawn | No Juris. | Out-<br>Standing |
|-----------|-------|----------|----------|------------|-----------|------------------|
| 1982..... | 74    | 42       | 1        | 28         | —         | 3                |
| 1983..... | 91    | 60       | 6        | 11         | —         | 14               |
| 1984..... | 92    | 56       | 4        | 9          | 1         | 23               |
| 1985..... | 91    | 35       | 6        | 12         | —         | 38               |
| Totals    | 348   | 193      | 17       | 60         | 1         | 78               |

Since January 1 of 1982, I have presented the government with 348 formal recommendations. Final decisions had been made on 270 of these by the end of 1985. These recommendations have produced 193 acceptances (71.5%). The percentage of acceptances of my 1985 recommendations stood at 66% on December 31, 1985.

In 1985, two Ombudsman Reports were referred to Cabinet for consideration after being rejected by the Minister of Social Services. The first Report involved a conflict of interest in a region of the department involving a senior employee of the department and a social assistance recipient who had been employed by the departmental employee for some 16 years at a substandard wage. In effect, the social assistance fund (S.A.P.) had subsidized the housekeeping costs of an employee of the department and I recommended that the department pay the wage loss incurred by the social assistance recipient and her C.P.P. and U.I.C. losses. This Report became the subject of a Special Report to the

Legislative Assembly in May of 1985 and did not produce any change in the government's position.

I moved a second report to Cabinet in late October. It involved a recommendation that the Department of Social Services reconsider its present policy of approving the use of corporal punishment in foster homes. The Minister of Social Services had rejected my recommendation in October and as I felt that the result of our investigations provided ample reason for a public reconsideration of the issue, the matter was referred to Cabinet in early November. As the government's position has not changed, my Report on this subject will be made public in 1986.

#### **STAFF**

In last year's annual report I described the pressures on my staff in the following terms:

"This was an exceptionally difficult year for the staff of the office. Our resources were stretched beyond the limit by increased public demand for our services. The staff also had to cope with the prolonged, but necessary, absence of two key members, the departure of an experienced investigator, the imminent departure of another and no reduction in the demands that the public and I place on them. With considerable difficulty, the staff responded admirably to these challenges and did so with what remains of their good humour. I am very appreciative."

Faced with further workload increases in 1985 and no additional staff or other resources, there is again, a special need to express my appreciation to my staff for an effort above and beyond the call of duty.

They have worked under unacceptable pressure for several years and deserve better. Through much overtime and by being exceptionally candid with our clients, the staff and the public has made the best of an intolerable situation. However, the staff of this office cannot be expected to continue at this pace indefinitely.

It is my fervent hope that my departure will be viewed as an opportunity to bring some relief to the staff rather than as an opportunity to add to their difficulties.

#### REGINA

Gordon K. Mayer — Solicitor to the Ombudsman  
W. Kenneth Barker — Assistant to the Ombudsman (Regina)  
Earl A. McKeen — Chief Investigator  
Murray Knoll — Investigator  
Robert Smerchinski — Investigator  
Rhonda Dundas — Investigator (Temporary)  
Carol Spencer — Intake Officer  
Joan Uhren — Executive Secretary  
Lana Stefan — Clerk-Typist  
Mary Ann McKay — Clerk-Typist  
Jody Kosanovich — Law Student (Temporary)  
Lynn Bloski — Clerk-Typist (Temporary)

#### SASKATOON

Gil R. Thomson — Assistant to the Ombudsman (Saskatoon)  
Joni Sereda — Investigator  
Glenda Cooney — Investigator (job-sharing)  
George Inkster — Investigator (job-sharing)  
Laura Cooke — Intake Officer  
Joyce Strate — Clerk-Typist  
Colleen Taylor — Clerk-Typist  
Harold Loewen — (Practicum Student)  
Jules Gravel — (Practicum Student)



**PART II**

**A COMMENT ON THE LAST NINE YEARS  
AN OVERVIEW AND SOME RECOMMENDATIONS**



## **PART II**

### **A COMMENT ON THE LAST NINE YEARS AN OVERVIEW AND SOME RECOMMENDATIONS**

#### **GENERAL**

Because this is my last annual report, I feel obliged to provide the members with some assessment of the strengths and weaknesses of the office and to offer suggestions for the future. It is my hope that these observations may assist in the selection of my successor and may be of even more direct assistance to my successor.

The literature on the subject of the Ombudsman contains many references to the various interests and expectations that have to be balanced and met by an Ombudsman to be successful, viz — the public, the public service, the legislature, the media and the government. I alluded to this in my first annual report but now feel much more comfortable in reaching conclusions on how it actually works.

#### **OUR RELATIONSHIP WITH THE PUBLIC — VERY GOOD**

- During my time, there has been an important change in the public perception of the office and its Ombudsman. I spent the first year and more explaining that the Ombudsman was not just another "government" agency. However, over time, our willingness to work to the full limit of our legislative mandate, our resort to public, special and annual reports and our occasional need to litigate with government on questions of jurisdiction, have helped establish that this office is the place to go for "independent" investigations of problems with the government.
- This office is also a place to go for results, as we have significantly improved our capacity to redress individual wrongs. We are now securing complete or partial remedies for almost one quarter of the persons who approach us with problems involving the Saskatchewan government. I should add that these are cases in which a remedy is warranted, i.e. — substantiated cases.
- We have also been reasonably successful in our efforts to make the Ombudsman more accessible to persons in all parts of the province and to all kinds of persons. The former has been accomplished by the introduction of toll-free telephone lines, community visits in remote parts of the province and the selective opening of

temporary offices in different parts of the province for a few hours. The latter accomplishment has involved much time and effort. I inherited an office where the clientele was primarily from the urban and rural middle class with very sparse representation from north-erners, social assistance recipients, injured workers, inmates and persons with disabilities. This is no longer the case. Without losing our original clientele, we have expanded considerably. For example:

- complaints against the government from residents in the six most northerly ridings rose from approximately 18 in 1976 to 113 in 1985.
- complaints involving social assistance persons has increased from 59 in 1976 to 317 in 1985.
- complaints by injured workers rose from 30 in 1976 to 182 in 1985.
- complaints from inmates has grown from 29 in 1976 to 170 in 1985.

WIZARD OF ID

BY BRANT PARKER & JOHNNY HART

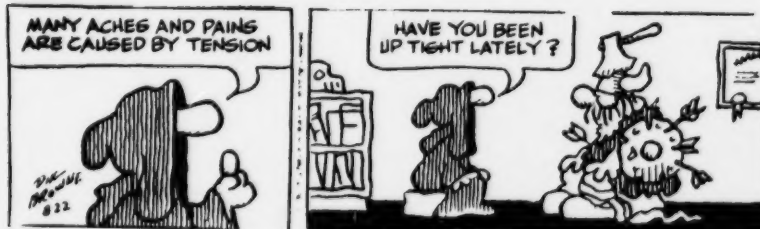


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● I had scarcely settled into this position before it became glaringly apparent that merely managing an investigative agency and making objective, and difficult, decisions on the basis of hard facts fell well short of the public's needs and expectations. With some success, we have attempted to combine our primary obligation to the public with a sensitive and helpful touch.

Many, if not most, people are confused by the ways of government and more than a little intimidated by its size, methods and expertise. Even where it would be premature to initiate an investigation, people are looking for practical advice and referrals. We provide that and often see them on a later date on other problems that need to be investigated.

HORRIBLE HAGAR



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It is also a fact of life that some people require more help than others in pursuing remedies. While we lack the resources to provide much of this help ourselves, over the years we have developed links with competent advocates and agencies who can assist in meeting the needs of these clients. By adopting this approach, people perceive that our attempts to be helpful are genuine and the cumulative affect over a period of time is a good one for the reputation of the office.

#### SUMMARY

While improvements are always necessary and needed, I believe our credibility with the public is high and is a 'strength' of the office rather than a 'weakness', with one exception. The exception involves those of our clients who need an investigation of their problem. They have to wait too long. Every day, we strain the patience of these clients because we lack the investigative capacity needed to provide answers within a reasonable time frame. However, our funding problems have been dealt with elsewhere in this Report.

#### OUR RELATIONSHIP WITH THE PUBLIC SERVICE — GOOD

- With some notable exceptions, I believe that we also have a good working relationship with the bureaucracy and that this relationship can only be categorized as a strength. Over the years, the exceptions to this observation have been limited to a few senior civil servants who, for one reason or another, are no longer members of the public service and some middle-management people who have felt threatened by our activities and investigations when we have been concentrating our efforts on a specific area of government activity. I include in this category, the senior public servant in an agriculture agency who anonymously gave us the lowest possible 'star-rating' shortly after I had first introduced the rating of departments and agencies in my 1980 annual report.



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● While I have characterized our relationship with the public service as a strength I am not suggesting that I have improved or even necessarily maintained the very considerable level of co-operation that this office enjoyed when I was first appointed in 1977. An excellent working relationship with the public service was the primary benefit that I inherited in 1977 and the credit for this goes to my predecessor. However, some erosion of this relationship was perhaps inevitable as I placed more emphasis on my responsibilities to the public, on non-legal issues and generally adopted a less cautious approach to our statutory mandate. Litigating with government on jurisdictional questions, the holding of formal hearings with witnesses under oath and my willingness to take issues to the public, as needed, inevitably dampened some of the earlier enthusiasm of the public service. However, even if there has been some diminution of "affection" over the years by the public service, I believe that we have generally managed to retain its "respect".

● Saskatchewan has a national reputation for the "professionalism" of its public service and I am a firm subscriber to that theory. Personally, my working relationship with the public service has been an entirely satisfactory one. This doesn't mean that there has not been differences of view and occasionally public disagreements with public servants. However, almost without exception, these disagreements have arisen because the mandate of senior bureaucrats differs from my own. Public servants in the course of administering the government's policies and programs, have to be concerned about administrative efficiency and the development and implementation of programs that work well for the majority of the beneficiaries of the program. On the other hand, an Ombudsman receives individual complaints from the public and has a mandate to pay attention to the individual circumstances of his or her complainant. Accordingly, I must ensure that there is sufficient discretion and flexi-

bility in policies and programs to avoid the technical disqualification of persons from those benefits and programs and to ensure that every citizen receives "reasonable" treatment.

For example, if a program works well for 90% or more of the people that it is directed at, it is almost by definition, administratively efficient in meeting its goals. I only hear from the 10% who are adversely affected by the program and if they are entitled to redress, my pursuit of a proper remedy for them is quite naturally perceived by public servants as a threat to the administrative integrity and efficiency of the program and an exception that runs the risk of creating a precedent. I used to think that lawyers were the professionals most fearful of a break with precedent. I am now totally convinced that the legal profession must take a back seat to senior bureaucrats.

WIZARD OF ID

BY BRANT PARKER & JOHNNY HART



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#### OUR RELATIONSHIP WITH THE ELECTED MEMBERS — IN NEED OF SOME STRUCTURAL IMPROVEMENTS

- The Saskatchewan Ombudsman is an officer of the legislature and is responsible for an agency of the legislature. *The Ombudsman Act* expressly requires annual reports to be tabled by the Speaker but is generally silent on the relationship beyond this point. In practice, the Speaker has evolved as a contact point for the Ombudsman with the legislature in other ways, but generally this link is somewhat tenuous.

In result, formal contact with the members is minimal and has created more than its share of misunderstandings. The situation has remained confused in spite of my best efforts because two governments have been reluctant to initiate the structural changes that I have put forward.

● My annual efforts to make the office more independent of the executive branch of government: budget review, overdue legislative change and changing the public service status of the employees of my office — has not been an attempt to become less accountable but only to shift our "accountability" to where it properly belongs, i.e. — to the legislative branch of government and the members. To remedy this problem I have consistently asked that an all-party committee, chaired by a member of the opposition be established to consider legislative changes and to review the issues raised by my reports so as to act as a vehicle for communication with the assembly. In my 1980 annual report I made this recommendation, at page 10, as an answer to my frustrations regarding the absence of legislative change and continued budget review by the Department of Finance. Since that time there has been no movement on either issue, except for Bill 30 which died on the order paper when the house was dissolved for the last general election. Similarly, there has also been no move to establish a committee of the assembly vis-a-vis the Ombudsman to improve these communications. Such committees have worked very well in Ontario and Alberta and, in this Province, could drastically improve communications between this office and the Legislative Assembly.

#### PEANUTS



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The absence of an all-party committee means that no one watches the legislative watchdog or conducts any general review of his or her effectiveness and efforts. It also ensures that when an annual or special report is tabled it is a complete surprise to most members which can easily lead to misunderstandings that could have been avoided. The issues raised by the Ombudsman in these reports will *not* be a surprise to members of cabinet. Because of the steps that are taken under *The Ombudsman Act* certain cabinet ministers, and often all cabinet ministers, are aware of any problems and have had ample opportunity to develop their positions on these subjects. The same is not true for the government backbenchers and the opposition members. My statutory obligations, like the provincial auditor,

are to *all* members of the house and not just to the select few who head up the executive branch of government.

- I would point out that the relationship of an Ombudsman to his or her legislature is not just my view of the matter or because of the Saskatchewan legislation. According to the international tests developed by the International Bar Association, and to the literature and the legislation in eight other Canadian provinces, the Ombudsman *must* be in a reporting relationship to his or her parliament or legislature.

This is clearly a weakness in this office's relationship with the members and one that likely poses more problems for the members than the Ombudsman. However, this does not end the matter as many of the unresolved issues that are brought to the attention of the members in my reports are issues where I believe that members of the public are entitled to a remedy. To the extent that communications are inadequate between the members and the Ombudsman, these citizens may be paying the price. I can think of several reports where if there had been an objective forum for considering the merits of these cases, the ultimate result might have been different.

- I should also add that my comments to this point relate to our linkages with the legislature and not to our working relationship with a great many of the individual members. Members are informed when I open offices in their ridings and they generally, regardless of political affiliation still produce a lot of referrals to this office. However, these contacts in themselves, do not in any way fully meet the needs set out above.

- I would also point out that many provinces have established an all-party committee, to select the Ombudsman, and I would encourage the members to also give this matter their consideration with respect to my successor. Unless an Ombudsman has the unanimous support of the members, he starts off at a distinct disadvantage. A committee approach to his selection could go a long way to providing my successor with the kind of legislative mandate that he or she, will require.

- In summary, our working relationship with the members of the legislature needs improvement, but much of the problem can only be resolved through collective action by the members. In this regard, I would also direct the attention of the members to section 31 of *The Ombudsman Act* which reads as follows:

"Section 31(1) — The Assembly may:

- (a) of its own volition; or
- (b) upon the recommendation of the Lieutenant-Governor-in-Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act."

#### **OUR RELATIONSHIP WITH THE MEDIA — VERY GOOD**

● An Ombudsman can only make recommendations and cannot determine or change rights. Determining rights is the business of the judicial system and the legislators. If an Ombudsman was limited to making recommendations and had to keep those recommendations entirely internal to the bureaucracy and the political system, his effectiveness would be very limited. This is where the media comes in as the Ombudsman's ultimate weapon is his express statutory authority to require governments to test their rejections of Ombudsman recommendations in the court of public opinion.

● Media coverage of annual reports, individual cases and the initiatives of the Canadian Ombudsmen as a group is also essential to keep the public informed of the availability of the Ombudsman's office and more importantly, of the kinds of issues that are being pursued with the public service and government. In this sense, the Ombudsman needs the media and the media, to a considerably lesser extent, is not unhappy that there is an Ombudsman.

If the relationship between the Ombudsman and the media is a frank and responsible one, it is a relationship that can be of considerable benefit to the public.

WIZARD OF ID

BY BRANT PARKER & JOHNNY HART



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- The offices of the provincial Ombudsmen, for whatever reasons, are notoriously underfunded when it comes to advertising their services and to educating the public about the role of the Ombudsman and the media is especially helpful in this regard. While media coverage only happens occasionally, it has a most positive effect because it focuses on real cases of individual hardship and significant government system problems.

- If there is a downside to a good working relationship with the media, it is simply that it creates a false impression of the office in the minds of the public and of some politicians. Publicly airing cases and issues because all else has failed, inevitably results in media coverage and an emphasis upon the confrontations between the Ombudsman and the government. For perfectly understandable reasons, the impression has been created and maintained that this is the modus operandi of the office. In truth, likely 99% of our good works on behalf of the public and the public service never require a public airing because resolutions are arrived at without any need for this kind of debate. The citizens who have dealt with my office and most public servants know this to be the case. Other members of the public and some politicians have a different perception. This is unfortunate, but perhaps unavoidable, as our occasional public confrontations are newsworthy, while most of our other good works are only occasionally so.

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BY BRANT PARKER & JOHNNY HART



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- Frankly, I have nothing but praise for the media in this province for their handling of Ombudsman issues during my terms of office. I hesitate to think where my office would have been on some issues if members of the media had not been alert to the implications of the subjects we were raising. To cite an example or two, I do not believe this office could have ever accomplished as much as it did in the areas of gas safety inspections and child abuse in the day care and foster care systems, without the generous print and other media coverage that we received.

While there is no doubt that the relationship of an Ombudsman with the media is not without its challenges, I have found it to be one of the easiest relationships to sustain. By overlooking the occasional errors in reporting that inevitably arise when people have to work deadlines and by attempting to deal with the media in an honest rather than adversarial way, I can state unreservedly that these contacts have been a source of pleasure rather than frustration and constitute a strength rather than a weakness of the Ombudsman's office at the present time. Whether this continues to be the case is up to my successor.

#### WIZARD OF ID



#### BY BRANT PARKER & JOHNNY HART



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#### OUR RELATIONSHIP WITH THE GOVERNMENT — NEEDS SOME IMPROVEMENT

- In a word, not the best. Without a doubt, an Ombudsman's relationship with cabinet and its members is a difficult one for most of the provincial Ombudsmen. Of those Ombudsmen in other jurisdictions who have failed to be reappointed, the reasons behind this decision seldom involved disenchantment by the public, the public service or the media. It usually involves a poor working relationship with the executive branch of government and occasionally, with other members of the legislature. There is no doubt but that our working relationship with the elected members responsible for the

executive branch of government, i.e. — cabinet, is a current area of weakness of the office and that it needs improvement.

To some extent, it may be inevitable that an Ombudsman who works up to his mandate will have something other than a smooth working relationship with the executive branch of government. The cumulative effect of appearing to be constantly in search of change and remedies for the public, and finding it necessary to air differences with the government in public several times each year, must put this relationship in some jeopardy. Sooner or later, there is a tendency to shoot the messenger when governments don't like the message. It may be because governments, once they settle in, wish to appear infallible and become less tolerant of differing views. It may also be because the Ombudsman is the recipient of only bad news and runs the risk of developing a jaundiced attitude towards government systems. In any event, there is no greater challenge for an Ombudsman than to attempt to maintain a good working relationship with government. There are days when I am convinced that the only way to do so is by defaulting on one's other obligations — and then there are other days!

#### HORRIBLE HAGAR



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- Having observed the approaches and experiences of a dozen or so provincial Ombudsmen, I can say with some certainty that every new Ombudsman enjoys a honeymoon period of variable duration with his or her government. From my own experience, I can also say with certainty that a change of government also brings with it a period of 'calm' and an exceptional opportunity to produce good results for his complainants. I would encourage my successor to make the most of it. The honeymoon can last for months or even years, if the Ombudsman is adept and if the government is genuinely committed to working with a representative of the public.

Issues rather than personalities usually end the honeymoon and this is perhaps as it should be. For example, my most productive time with the present government was considerably shorter than with the government before it. It ended in April of 1983 when I made a public issue out of the prospect that the Department of Finance might be arbitrarily deleting two-fifths of my investigative staff. Public reports since that time involving public safety, child protection and other issues have ensured that the working relationship continued to be somewhat tense.

After the honeymoon, the ongoing relationship between an Ombudsman and government is fraught with difficulties unless he or she understands certain realities about the relationship.

1. Governments, for reasons that escape me, have a desire to appear infallible, or as nearly infallible as possible, and tend to view even constructive criticism as "political" criticism.
2. Governments fervently hope that an Ombudsman will concentrate on the "nuts and bolts" of public administration by keeping his efforts to issues between the Ombudsman and the public service and by otherwise avoiding higher profile issues. The Ombudsman has a duty to do otherwise because of his legislative mandate, as confirmed by the recent pronouncements of the Supreme Court of Canada.
3. Governments dearly hope that an Ombudsman will keep his issues internal to government systems and not make them the subject of public discussion and debate.
4. In Saskatchewan, governments will oppose structural moves to firm up the Ombudsman's accountability to the legislature and to reduce his dependence on the executive branch. This occurs, I assume, because the executive branch fears some loss of control over the Ombudsman's activities.
5. Governments also have a tendency to draw the best from an Ombudsman's work by accepting his system recommendations to prevent future problems while at the same time denying remedies to the very persons who first brought the problem to the attention of the Ombudsman and the government. This is grossly unfair and has been the reason for taking issues to the public on a number of occasions. Some current examples have been provided at page 58.

6. Unless an Ombudsman operates on the premise that a satisfied government overrides his other responsibilities, his working relationship with government will never be entirely harmonious. Where a government is displeased, an Ombudsman can anticipate paying some kind of price for its displeasure. It is to the credit of the two governments with which I am most familiar that the "price" we paid was in the area of what could (almost) be described as "proper" areas of ongoing contact with government. Because of the extensive exclusions in the Saskatchewan Ombudsman Act and the continuance of certain relationships with government rather than the legislature, government dissatisfaction with the relationship has been limited to things like inaction in introducing amendments to *The Ombudsman Act*, Treasury Board not recognizing the need for additional resources, and the non-movement of our budget to the Board of Internal Economy.

#### SOME RECOMMENDATIONS

It can be seen from the above comments that most of the friction points with the executive branch of government have involved the presence of relationships with the executive branch that *are outside the primary statutory duties* of the Ombudsman. So that my successor won't have to devote a further five or ten years to the same issues, I would urge the government and the legislature to take the following steps:

1. ENACT THE AMENDMENTS TO *THE OMBUDSMAN ACT* THAT HAVE BEEN CONSISTENTLY PUT FORWARD FOR THE PAST NINE YEARS.

It took four years to get a Bill before the Saskatchewan Legislature in 1982 only to have it die on the order paper because of the general election. Subsequently, I was assured that Saskatchewan would not have "second-class" legislation. But it still does! Housekeeping and more consequential amendments to *The Ombudsman Act* have been sought annually since the summer of 1977 and promises by government to make these changes have been made almost as often. Until the Saskatchewan Ombudsman has the authority to investigate the decisions of deputy ministers and the like, the Saskatchewan public is being denied a remedy that exists in eight other provinces. Additionally, the presence of this restriction is in direct contradiction to the concept of Ombudsman enunciated by the Supreme Court in late 1984, i.e. — that the Ombudsman should be able to investigate

all government actions and decisions except those that are judicial (courts) or legislative (the legislature and its committees).

2. ENSURE THAT THE STAFF OF THE SASKATCHEWAN OMBUDSMAN CEASE TO BE PUBLIC SERVANTS AND BECOME EITHER EMPLOYEES OF THE OMBUDSMAN OR EMPLOYEES OF THE LEGISLATIVE ASSEMBLY IN A MANNER SIMILAR TO THAT OF THE EMPLOYEES OF THE CLERK'S OFFICE, THE LEGISLATIVE LIBRARY AND MORE RECENTLY, THE PROVINCIAL AUDITOR.

The complaints we receive and investigate include many complaints against the Public Service Commission. There is at least an apprehension of bias when my investigators and senior staff have to investigate and make decisions on the actions and decisions of officials who literally control their employment conditions and rights.

3. ENSURE THAT THE BUDGET FOR THE OFFICE OF THE OMBUDSMAN CEASES TO BE REVIEWED BY THE DEPARTMENT OF FINANCE AND TREASURY BOARD AND THAT IT BE REVIEWED BY AN ALL-PARTY COMMITTEE OF THE LEGISLATURE SUCH AS THE BOARD OF INTERNAL ECONOMY.

In times of restraint, such as the past several years, the executive branch through the Department of Finance is literally controlling the amount of service that we can offer the public. This is a decision that should be made by the legislature.

4. THAT CONSIDERATION BE GIVEN TO LENGTHENING THE PRESENT TERM OF OFFICE OF THE SASKATCHEWAN OMBUDSMAN FROM FIVE YEARS TO SEVEN OR EIGHT YEARS AND ADD CERTAINTY TO HIS OR HER TENURE BY EXPRESSLY EXCLUDING ANYTHING MORE THAN A SINGLE TERM OF OFFICE.
5. THAT AN ALL-PARTY COMMITTEE OF THE HOUSE, CHAIRED BY A MEMBER OF THE OPPOSITION, BE ESTABLISHED TO SELECT MY SUCCESSOR AND THAT A STANDING COMMITTEE OF THE LEGISLATURE BE ESTABLISHED TO ACT AS A LINK BETWEEN THE OMBUDSMAN AND THE LEGISLATIVE ASSEMBLY.

To my knowledge, the selection of an Ombudsman is made by an all-party committee in the provinces of Manitoba, Alberta and British Columbia. I believe there is a significant difference between obtaining the *consent* of the political parties in the legislature and having the successful candidate selected by elected representatives of the political parties. This again, would strengthen the links between a new Ombudsman and the Legislative Assembly.

6. THAT MY SUCCESSOR BE SELECTED AS PROMPTLY AS POSSIBLE.

When I was appointed in 1977, the position had been vacant for 14 months. This posed some very practical problems for the public and the staff of this office and I have observed similar problems in other jurisdictions when there has been anything other than a prompt appointment. The Ontario Ombudsman Act recognizes this risk by requiring the appointment of a new Ombudsman within a fixed time frame of six months. My proposed amendments included a requirement that the appointment be made within eight months of a vacancy.

7. THAT THE EXECUTIVE BRANCH OF GOVERNMENT ADDRESS AND RECONSIDER THE UNRESOLVED SYSTEM ISSUES AND THE RECOMMENDATIONS FOR REDRESS TO INDIVIDUAL SASKATCHEWAN RESIDENTS CONTAINED IN PART III OF THIS REPORT, AND INFORM THE ASSEMBLY OF ITS DECISIONS.



### **PART III**

#### **SOME UNRESOLVED ISSUES**

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### **PART III**

#### **I. CHILD PROTECTION ISSUES**

##### **General**

This subject was a major agenda item at the last national meeting of Canadian Ombudsmen in Quebec City in June of 1985. The paper I presented to the conference opened as follows:

"Children in our society are our most precious resource and our most vulnerable group. In its various forms, child abuse is occurring at a rate that tests the imagination. Solutions are not in sight and most governments are not giving this issue the priority it deserves. Is this not a classic case of the need for Ombudsman initiatives on behalf of a specific segment of our society?

It is not just a coincidence that the eighties have seen a dramatic increase in public concern about the emotional, physical and sexual abuse of children in Canadian society. Current public concern is not a passing popular notion but a concern based on the presence of better statistical information than was available previously. The most recent studies and reports paint a dismal picture of the extent of child abuse and the fragmented way in which society is responding to the problem. For there to be any real hope of developing effective solutions, there is a need for the kind of co-ordination of federal and provincial responsibilities and the kind of breakdown of the barriers between professional groups that we seldom see except in times of national emergency. In the view of many, adopting a multi-disciplinary approach is essential to progress on this subject. There is also a clear need to co-ordinate the federal responsibility for the criminal law with the provincial responsibility for child abuse registers and other mechanisms for the protection of children.

Having said that child abuse is a national problem, I don't want to leave you with the impression that we, as Ombudsmen, have either the collective wisdom or the resources to resolve this kind of problem. However, the proposition that I am putting forward here is that we must be acutely aware of the problem, and give it a genuine priority in our work. I am also suggesting that we *can* contribute to the solutions *if* we act collectively to better co-ordinate our efforts and our information".

At the end of our Conference the Canadian Ombudsmen unanimously passed a resolution wherein we agreed to give priority in each of our offices to child and child protection issues, to establish a clearing house for information on the subject and to place this issue on our 1986 Conference agenda. The Conference also selected the Ontario Ombudsman Dr. Dan Hill, the Alberta Ombudsman Mr. Brian Sawyer and myself, as a working committee to establish topics for discussion at next year's conference. As a result, we have developed a list of priorities and principles that could govern the work of Canadian Ombudsmen, vis-a-vis children and children's issues, for consideration by our colleagues next June.

#### **The Provincial Day Care System**

As indicated in past annual reports, our initial contact with child protection issues was in the somewhat unlikely area of the provincial day care system. As mistreatment had been identified by us in some day care facilities, we recommended, and the Department of Social Services accepted, that the department cease its "hands-off" policy in cases of corporal punishment and isolation and accept responsibility for investigating all such incidents.

It soon became apparent from subsequent investigations that the Day Care Branch of the department lacked the skills to adequately conduct these investigations. At this point, the department agreed that the Child Protection Branch should assume the task. Later, the department of its own volition felt it would be appropriate for the child protection worker to be teamed with a member of the Day Care Branch. In our view, this has worked reasonably well and is certainly a great improvement on either of the former approaches, that is — doing nothing, or having these issues exclusively investigated by the Day Care Branch. However, there are still some problems.

Because day care centres provide a regulated environment where physical punishment and isolation are expressly prohibited, children in day care will only be seen as "in need of care and protection" in extraordinary circumstances. Child protection workers are used to investigating care and protection issues under the provisions of *The Family Services Act* in circumstances generally far removed from a day care setting and I have sensed a tendency to regard the physical punishment and isolation of children in day care centres as a mere "quality of care" issue rather than as a child protection issue.

It might well be a quality of care issue, and be treated adequately as such, if there were any licensing consequences for a day care centre using corporal punishment or isolation to control children. For example, where instances such as these occur, it may be appropriate to suspend licenses pending the outcome of investigations or, in other circumstances, to continue the license but add conditions that would ensure revocation if unacceptable conduct continued. But this is not yet the case, as the changes in the licensing provisions governing the day care system (which we recommended in 1980) have never been implemented, even though they were accepted by the department at that time.

Surely five years is long enough to wait for these legislative changes given the continued presence of some physical and emotional risk to some children in the day care system.

#### **Child Abuse Investigations**

Additionally, we have received a significant number of complaints from natural parents about the trauma suffered by themselves and their children because of departmental involvement (although any apprehension of children must be painful and, unfortunately, many are necessary), as well as complaints from one parent or the other where there is a separation and ongoing custody dispute, and a child abuse/neglect complaint *may* be part of a discrediting tactic used by one side or the other. These are difficult cases since the motives for complaining are suspect but the complainant *may* be genuine.

We have also investigated complaints by natural parents who have been exonerated after police and departmental investigations and who are concerned because they have been unable to publicly clear their reputations.

Because of these investigations, I familiarized myself with child abuse projects in other jurisdictions and shared this information with the department. These projects have developed a number of techniques for mitigating the trauma to an abused child and involve joint police/social work investigations by specialists from each discipline. This approach has many benefits and is needed in Saskatchewan. In 1985, the department indicated that two pilot projects were underway, in North Battleford and the City of Regina. However, according to my current understanding, the Regina project is in a stalled state because the various parties have not yet been able to agree on the actual protocol to be followed. On the other hand, the North Battleford project is in place and appears to be working well.

There is a clear need for both of these pilot projects to be firmed up and operational as soon as possible. The Regina project has the potential to be the model for the investigation of physical and sexual abuse in Saskatchewan's major urban centres and no effort should be spared in getting on with the task.

#### **The Foster Care System**

This is an area of urgent concern and where our case experience has been extensive. The issues in these cases include the presence of physical and sexual abuse, inadequate care, and a host of other child care issues.

Some of my early conclusions were dealt with in last year's annual report and focused on the absence of annual re-assessments of foster parents, a lack of co-ordination by the department of relevant information and indeed, in one region, the absence of a person directly responsible for ensuring that these things occur. There has been some progress on these issues, but a lot of the problem has to do with resources and the situation is unlikely to improve, *unless government* gives a higher fiscal priority to questions touching on child protection and the quality of the present foster care system.

We are still seeing foster parents who are known, or should be known, by the department to use very physical discipline (with belts and broken whips) having children placed with them who were apprehended from their natural parents because they suffered similar kinds of abuse. We are also seeing very difficult foster children being placed with foster parents who are inexperienced or of doubtful capabilities and who don't receive anywhere near the background information they require from the department. We also see willing and able foster parents being encouraged to take more children than can be effectively handled or the department permitting this to happen. Over and over again, we have also seen a glaring lack of special resources for children with special needs and the pressures brought on the child, the foster parents and the educational system because of these inadequacies.

One of my most serious concerns about the foster care system will be the subject of a public or Special Report later this year. This concern involves the present policy of the department to permit foster parents to use physical discipline on foster children. Our investigations call out for a public reconsideration of this policy. My recommendation was the unsuccessful subject of Ombudsman Reports to

the department, the minister and the provincial cabinet in 1985. My reasons for concern and at least one specific example of the problem will be released at that time.

### **Summary**

While many improvements have been made, the provincial systems in place for the protection of children are still not adequate. Fortunately, many improvements are currently under discussion in the department in the context of its "Child-in-Care Review" and the proposed introduction of a conceptually different legislative framework. While recognizing these initiatives, there are still major issues that have not yet been fully addressed, i.e.:

1. The continued use of corporal punishment and isolation in some day care centres and some confusion in the tests to be applied in the course of investigating these incidents.
2. The need to strengthen the department's "licensing hand" by amending the present day care legislation to enable the department to impose conditions on day care licensees if unacceptable practises are present and to impose some 'middle ground' options with regard to the licensing of day care centres. Any licensing authority worthy of the name *should* be able to temporarily suspend licenses pending an investigation and to revoke day care licenses if unacceptable practises continue.
3. The need for a greater effort to develop urban (and rural) child abuse projects to ensure that joint investigations by police and social workers take place, that trauma to the abused child is minimized and to better co-ordinate the criminal justice, social services and other related systems and services.
4. The present child abuse registry system is entirely internal to the department and not a truly public or accountable one. Where false allegations of child abuse have been made, there is no process whatsoever for ensuring that the individuals who have been the subject of an investigation are cleared of responsibility in the public mind. More independent and formalized abuse registers are in place and functioning well in most other Canadian jurisdictions.
5. It also appears as though the department and the minister have studiously avoided any public discussion of the use of

physical discipline in the foster care system. It is too important an issue to be overlooked any longer and should be the subject of more than just an internal departmental review. Many persons have a direct interest in this subject and have something to contribute to the ultimate solution. In my view, consultation with the public is essential to the development of a new and workable policy.

## II. THE POLLY REDHOT CASE — A POSTSCRIPT

The members will recall that this case was the subject of a public Report in April of 1985. As a result, negotiations between the government and the solicitors for the estate of the late Polly Redhot produced a settlement, new procedures were put in place in the Gas Safety Branch to greatly reduce the risk that another defect report would ever become lost and a moratorium of the department's new 'targetting policy' went into place until the implications of the new policy could be fully considered from a legal and public safety perspective. It was also agreed that the 'targetting policy' would not be re-introduced unless it was preceded by a significant public education program to let the consumers of the province know that they would have to assume most of the responsibility for ensuring the safety of their gas furnaces and other gas appliances.

Enquiries of the department in the fall of 1985 indicated that the legal and public safety reviews had not been completed and were unlikely to be completed in the near future. In a meeting with the deputy minister, I indicated that these reviews were not necessary if the 'targetting policy' was *not to be re-introduced*, i.e. — if the former, and broader, inspection policy remained in place. The department and the minister agreed and the following is an extract from the deputy minister's letter to me that permitted me to close this file:

"This complex and difficult case has taken a lot of time to reach resolution. However, hopefully, the Department can now fully address all the issues you initially raised on this case.

### I. *Payment of Compensation to the Estate of Polly Red Hot*

There has been agreement between the two solicitors involved in this question and the matter appears to be resolved.

## II. Targetting

The policy of targetting specific gas inspections was stopped when the unfortunate case of Polly Red Hot was discovered. Although targetting was not a factor in the death of Polly Red Hot, the implementation of such a policy does require detailed analysis. The department can now confirm a few basic facts:

- 1) There is and will continue to be a moratorium on targetting.
- 2) If targetting is to be reintroduced it will only be done with the department obtaining the following:
  - a) expert advice on the risks.
  - b) legal advice on the legal consequences.
  - c) developing a program of public awareness.

More gas inspectors have been added to the Department, a consulting firm has been commissioned to study methods of inspection, and the Department of Justice is doing a review of certain legal aspects of the Act. However, the questions raised are extremely difficult ones. The key one being; how to deal with increasing demand for service in tight economic times?

It is hoped with these assurances that this matter is now resolved. If you have any concerns do not hesitate to contact me."

## III. THE NEED FOR LEGISLATION OF GENERAL APPLICATION TO GUARANTEE PROCEDURAL FAIRNESS TO SASKATCHEWAN CITIZENS IN THEIR DEALINGS WITH GOVERNMENT

In considering whether the bureaucracy has appropriately dealt with a citizen, I apply three tests to our investigations. Firstly, were the actions lawful and properly authorized by relevant legislation, orders and policy? Secondly, was the decision made in a procedurally fair way? The third test is more subjective and is an assessment of the merits of the issue and whether the decision was "discriminatory", "oppressive", "unjust", "unreasonable" or "wrong", or whether it was made for an improper purpose or upon irrelevant grounds.

Where we find in favour of a member of the public, there is a fairly even split between the aforementioned three tests. Accordingly, almost one-third of the recommendations we make are based on the absence of procedural fairness, and I am then arguing that the citizen should have his case reconsidered or be entitled to a specific remedy. Procedural unfairness includes such things as a complainant not receiving a decision or reasons for the decision, being denied an opportunity to be heard, not receiving all the information that the decision-maker had in his possession, and being denied an opportunity to qualify or rebut damaging evidence obtained by the tribunal or other decision-maker at or outside of, the hearing; etc.

In the absence of general legislation ensuring basic procedural fairness to the citizen, we have had to approach the issue on a piecemeal basis, as the issues arise in the course of our investigations. For example, citizens are entitled to know the reasons for the decisions they receive. The absence of reasons is a breach of the decision-maker's obligation to our client. Even if we are successful in convincing a specific tribunal to provide reasons, we have to repeatedly raise the same issue with a variety of tribunals and other decision-makers on a case-by-case basis in order to make the same point. Additionally, over the course of time and with changes in tribunal membership, the absence of an express legislative obligation to provide reasons invariably results in the practise falling away and our having to raise the same issue some years later. Similar difficulties are encountered on other procedural fairness grounds with the same twists and confusions. While all this adds considerably to our workload, and is troublesome, my primary concern is that the citizen can be treated quite differently by different tribunals and decision-makers and that he has no minimum procedural safeguards.

The answer in Ontario and Alberta has been to enact omnibus legislation governing all government decisions, whereby the citizen is guaranteed certain procedural rights. I have supported the introduction of this kind of legislation for a number of years and have said so in past annual reports. The absence of such minimum safeguards confuses the public and is a totally unnecessary burden on this office. It also requires persons to litigate more often than they should in the case of quasi-judicial decisions by government. The fact that the rules of the game differ from tribunal to tribunal and license-issuer to license-issuer unnecessarily confuses the public and undermines its confidence in the fairness of government decisions.

At present, the procedures in place with regard to the various decision-makers and tribunals vary from "just fine" to "totally unacceptable". What I am proposing is a legislative answer to a significant ongoing problem. While it may have some inconvenience aspects in that many tribunals would have to change their procedures, there is no significant cost attached to such an initiative and it would be of immeasurable benefit to the public.

*I would suggest that the opinion of the Justice Minister be sought on this subject or that this proposal be the subject of an independent study and report to the Justice Minister by a person, or persons, competent in the field of administrative law.*

#### **IV. NORTHERN HOUSING PROBLEMS — A NOTABLE OMBUDSMAN FAILURE**

There was a massive effort by government in the 70's to provide adequate housing for northerners. It was a noble attempt to improve the lot of northern residents while at the same time providing scarce employment opportunities and training skills in northern communities and settlements. While the program was a success in the broad sense, it also had its casualties. In consequence, this office received more than its share of complaints about housing problems. Some of these problems were new house warranty issues and were resolved quite easily. We were considerably less successful with problems involving water and other kinds of continuing damage to these homes arising out of poor siting decisions, basic construction defects and design problems. Even in these circumstances, we regularly could get improvements and repairs to the damaged parts of the homes, i.e.: improved grading, replacement of window and door frames, the addition of downspouts and other improvements in eavestroughing, the replacement of water damaged insulation and ceiling tiles, etc. However, we have been almost totally unsuccessful in obtaining the major corrections that were needed to end this pattern of consequential damage.

In this respect, the Saskatchewan Housing Corporation and its predecessor, D.N.S., have demonstrated a remarkable consistency in their approach. Both the department and S.H.C. have been unwilling to correct basic design faults in communities as diverse as Stoney Rapids, Wollaston Lake, Pellican Narrows and Cumberland House. Our recommendations have been denied regardless of the kinds of basic fault in the design, construction and location of the home. The

kinds of basic problems I am talking about includes homes built on the low point of their lots, others built on muskeg (or 'Arctic silt', as S.H.C. describes it) and in the case of Cumberland House, with basements below the water table at certain times of the year and where underground streams literally flow through basements in the spring. (While not relevant to the point I'm trying to make here, we have also seen northern housing that was so inadequate that it had to be rebuilt two or three times from the ground up and, on more than one occasion, we found D.N.S. constructed housing in which the front of the homes faced the back yard rather than the street.)

Over the years, I consistently took the position that taking the steps necessary to remedy basic construction, siting and design faults was a government responsibility and that government action was owed to these homeowners *even if* the most economical answer was to provide alternate housing. In very many cases, the consequential damage had been repaired so many times and at so much cost that it would have been much more economical for government to have initially corrected the basic problems. Instead, two generations of government have blamed the damage caused by excess water and humidity on the lifestyles of the inhabitants *instead* of the real causes. These agencies have also encouraged these homeowners to participate in loan and other housing programs to help meet the cost to the homeowners of problems caused by these design, siting and construction problems.

To add insult to injury, our investigations have also disclosed a consistent pattern of default and disregard by government with respect to northern homeowner problems of this kind. In case after case, complaints by the homeowners were met with speculative answers as to the source of their problem, delays that in some cases can be measured in years and a pattern of broken commitments with respect to inspections and remedies. It is small wonder that these homeowners, having exhausted their patience and remedies, regularly took the only form of protest available to them and stopped making payments on substandard housing. Over and over again I heard northerners state that the *only* way to get any action with regard to the housing defects was to stop making payments. I suspect that many southerners would have taken the same position if faced with similar problems!

By way of example, I would refer the members to a case involving the plight of five homeowners in Wollaston Lake. My recommendation to provide these homeowners with alternative accommodation was rejected by the Saskatchewan Housing Corporation and by the

minister then in charge. The minister was only prepared to employ a consulting geo-technical engineer to report on any foundation design corrections necessary to ensure proper functioning and to follow the engineer's recommendations.

**"REPORT AND RECOMMENDATION OF THE OMBUDSMAN TO  
THE MINISTER-IN-CHARGE OF THE SASKATCHEWAN  
HOUSING CORPORATION, PURSUANT TO SECTION 24 OF  
THE OMBUDSMAN ACT**

- and -

LOUIE BENONIE — Lot 5, Block 5

GABRIEL BENONIE — Lot 6, Block 5

ALPHONSE DZEYLION — Lot 7, Block 5

WILLIAM HANSON — Lot 8, Block 5

JONAS HANSON — Lot 9, Block 5

ALL OF WOLLASTON LAKE, SASKATCHEWAN

OUR FILE — #83-18100-00-08

**INTRODUCTION AND BACKGROUND**

In June of 1983, while an investigator with my office was in Wollaston Lake, he received complaints from the above named individuals regarding the housing problems that they had endured for many years. When my investigator looked at these homes it was immediately apparent that there was a serious problem as he could physically observe that the centre of the homes had dropped and that many of the doors and windows could no longer be closed. He was advised by the homeowners that some of the houses had shifted sufficiently to physically break windows and concluded that the problem was related to major flaws in the construction or siting of these units. In result, I initiated an Ombudsman Inquiry pursuant to section 12 of *The Ombudsman Act* and gave notice to the then General Manager by way of letter dated June 7, 1983. (Appendix "A")

The houses in question were built in 1974 and a pattern of continuing complaints by the homeowners and *some* remedial steps by the Northern Housing Branch are well documented.

The government's early knowledge of the problem and the fact that the units have been a constant concern to the homeowners can be established by reference to departmental memoranda of February 3, 1977, February 15, 1977 and March 25, 1977. Copies of these memoranda are attached as Appendix "B" to this Report. For example:

"... I saw each homeowner and they all had complaints, and to the best of my knowledge they are legitimate. They are very disgusted with the condition of their houses which I think are construction defects. The biggest problem I see is that the houses are shifting.

They said a number of people (D.N.S. employees) have seen them about this situation, but to date there has been nothing done."

Memorandum to file dated February 3, 1977 from Wayne P. Mesenchuk.

"... I have been informed by Jim Nabors that the '74 houses at Wollaston have again heaved at the corners, same as they did last winter.

I think the reason for this is that the air circulation is to the registers on the sides and ends with no heat going to the corners thus allowing frost to creep in because of excessive moisture. Possibly the answers are:

- 1) Install ductwork so when there is frost heaving, it would be pretty uniform around the perimeter resulting in the house staying fairly level.
- 2) Try to lower the watertable which we talked about before."

Memorandum dated February 15, 1977, from Cliff Erickson to Mr. Dan Bader.

"... My concern is, being that a five-year structural warranty now expired, do we still have any responsibility to repair these houses? *Also, if we have in the past carried out minor repairs, did these repairs solve the problems or merely band-aid the matter?*"

(emphasis mine)

Memorandum dated March 25, 1981, from Larry W. Evans, Manager Northern Housing Branch to Bill Leigh, Building Division.

It is now late 1984 and remedial steps have not yet been taken with regard to the plight of these homeowners. I should also point out that there finally appears to be some consensus between S.H.C. and ourselves and that the primary cause of the problem was the original decision to locate these homes on

lands where the soil conditions were suspect. The units were built on muskeg and recognition of this fact at the time of construction is reflected in the decision to place the homes on surface foundations which were intended to enable the foundation to "float" on this kind of soil. It should by now be obvious that this type of construction was not suitable and, indeed, that no construction technique may have been suitable, at this location.

#### INVESTIGATIONS AND CONCLUSIONS

During the course of our investigation it was apparent that even though the problems associated with these units were raised well within the five-year warranty period, the predecessor to Sask-Housing began to question its responsibility for these problems after the expiry of the warranty period. In this regard, I would refer you to the attached copy of a letter dated March 25, 1981, (Appendix "C") from Larry Evans, Manager, Northern Housing Branch to Bill Leigh of the Building Division and Mr. Leigh's response (Appendix "D"), indicating that the department *did not* have any responsibility in the matter and going on to also suggest that the new air strip at Wollaston affected the runoff of surface water and created the problem.

On the basis of our investigation, I am entirely satisfied that the five-year warranty period should not have been an obstacle and cannot continue to be an obstacle. Unremedied complaints lodged well within the warranty period clearly estops the government from taking advantage of the time that elapsed through their own inaction to avoid its responsibilities. On the airport landing strip question, S.H.C., as *recently as July of 1983*, took the position that the construction of the airport landing strip was the primary cause of the problem because it created a severe runoff and that the installation of a "major drainage system" had taken place to meet this problem. The attempt to link landing strip construction with the problems encountered in these units was no more than failed conjecture. The problems were apparent before the new landing strip was constructed and the old landing strip was present before the construction of the houses in 1974. By the use of aerial photographs taken in August 1971 and 1977, and by contact with Saskatchewan Highways and Transportation, it was confirmed that the landing strip had not contributed to the water problems affecting the residential housing east of the airstrip. The work done on the airstrip in 1977 increased the grade of the landing strip away from the east side and would have reduced rather than increased any runoff problem.

Our review of departmental files also produced a memorandum of March 31, 1981, (Appendix "E"), in which the then Housing Program Manager stated:

"In reference to your letter to Bill Leigh, March 25, 1981, the five units in question were constructed on unsuitable land. The repairs that were carried out by the Department, did not solve the problem that existed at that time or at the present time. I recommend that the Department approach C.M.H.C. and request approval to *move or reconstruct* the five units on suitable land. We will continue to have problems with these houses, if they are left at this present site, as the land used is musky."

(emphasis mine)

Notwithstanding this information, an official wrote to a member of the Northern Municipal Council (N.M.C.), also on March 31, 1981, indicating:

"... It is the decision of the Building Division that the branch cannot assist these homeowners with warranty repairs, upon consideration of the circumstances."

#### CONCLUSIONS AND RECOMMENDATIONS

Based on the product of our investigation, I provided Mr. Hart with my tentative findings and proposed recommendations on January 9, 1984. The recommendation at that time was somewhat more general than the recommendation in this report. I indicated that I was contemplating a formal recommendation that such work as is necessary to remedy the plight of these five homeowners be contracted out and effected at no cost to the homeowners. My letter to Mr. Hart of the above date is attached as Appendix "F" to this report. Given the obvious need for action and the very genuine nature of the homeowners complaints, I anticipated some movement by the Corporation. Unfortunately, this was not the case. In this regard, I am attaching as Appendix "G", a copy of Mr. Dybvig's response of March 27, 1984. Mr. Dybvig's letter at least acknowledges that the basic problem with these units related to the soil upon which they were built and ceases to raise, by way of defence, either the five-year warranty period or the argument raised as recently as June of 1983, that the air strip caused the problem or contributed dramatically to it. In Mr. Dybvig's letter, we now have a fresh series of justifications for past or future inaction. We have the indication that the government has spent in excess of \$10,000 per unit to rectify

the problem. To the extent that this sum involves improved drainage to cope with the runway problem, I must really question the relevance of this expenditure. To offer to replace the consequences of the damage rather than deal with the cause or to claim that throwing good money after bad by installing drainage systems to resolve mythical runoff problems associated with the airstrip is hardly a justification for not assisting homeowners who have *never* been provided with suitable housing! Incidentally, I have been unable to date to document the \$10,000/unit figure put forward by the Corporation.

While I opened the door to the issue in my letter of recommendation to Mr. Hart, we are again dealing with what is, at best, 'possible' solutions, (i.e. — adequate heating in the crawl-space and the merits of oil heating versus heating by wood in a location surrounded by provincial forest) rather than dealing with the basic issue of government responsibility. By way of an aside, we have contacted the homeowners who expressed some considerable confusion about the suggestion that they need do no more than use their circulating fan to resolve the problem. Additionally, our subsequent contact with S.H.C. officials has provided no support for the assertion that the homeowners were in receipt of advice on this subject. Our inquiries have also cast doubt on the practicality of the 'current' solutions to the problem. For example, we are informed that the foundations to these houses are currently in such a state of disrepair that it is unlikely that sufficient heat can be retained in the crawl-spaces. We have also been advised by community persons that notwithstanding the Corporation's assurances to the contrary, there was other suitable land available in the community at the time these homes were originally built.

Given the history of the problem, there is absolutely no assurance that any of the most recent solutions to the problem suggested by S.H.C. will be more effective than the 'earlier' solutions. Accordingly, I am in this report, adopting the recommendation of one of the government's own employees at an earlier point in time in this file.

#### RECOMMENDATION

THAT THE SASKATCHEWAN HOUSING CORPORATION  
MOVE OR RECONSTRUCT THESE FIVE UNITS ON SUITABLE  
LAND AT NO EXPENSE TO THE HOMEOWNERS AND  
THAT THE CORPORATION DO SO NOT LATER THAN JULY  
1, 1985.

#### COMMENT

This file like so many others before it, is a classic example of where homeowners have had years of uninterrupted problems because of poor initial decisions regarding the location of their homes. For at least seven years they have conveyed their concerns to no effect. During that time, they have been consistently met with either inaction or reasons for inaction that do not hold up to close scrutiny, e.g. — the warranty and landing strip issues. This kind of treatment or result would not be tolerated in the south where government is not insulated from the reality of its responsibilities by geography. Accordingly, redress in the form recommended is entirely justified in my view.

Pursuant to the provisions of *The Ombudsman Act*, I would ask to be advised as to the steps taken by the Saskatchewan Housing Corporation or that it intends to take, by October 31, 1984.

DATED at Regina, Saskatchewan, this 4th day of October, 1984."

#### V. AGRICULTURE — THE LOTTERY APPROACH TO AWARDING CROWN LEASES

In the course of an investigation, we learned that instead of applying the tests established by the legislature to award crown leases, the department puts the names of the top percentile of qualified applicants in a hat and draws out the name of the successful applicant. Additionally, the Appeal Board established to assess and review the department's decisions on these leases merely recognizes this lottery approach as a matter of departmental policy and accepts the result. In legal terms, this kind of unauthorized selection of a successful candidate amounts to a "non-decision". It is also very prejudicial to the losing candidates as it makes a complete mockery of the refined appeal rights that we fought so hard to get in place in the early eighties. My recommendation to cease this practise was based on sound legal grounds and has not been accepted by the department, the appeal board or the Minister of Agriculture.

#### VI. CONTINUED CALLOUSNESS IN THE SOCIAL ASSISTANCE SYSTEM

In my 1983 annual report, I devoted several pages to problems in the social assistance field. Among other things, I expressed concern about the callous treatment of some social assistance persons and

included actual cases involving youths, illiterate persons and those suffering from physical and mental disabilities to emphasize the point.

My annual report for 1984 also touched on the same subject and did so in the following terms:

"While I was unable (in 1984) to devote as many of our scarce resources to the investigation of this particular issue as I might have wished, we did investigate sufficient cases to enable me to conclude that *if* the situation has improved it has only improved in a marginal way. While it is difficult to segregate the effects of increased client pressure on the department, the changes in the social assistance system (welfare reform) and staff attitudes, it is certainly my impression that the kinds of problems in the social assistance system that I identified last year are still with us. For whatever reason, we are still regularly encountering an abundance of "Catch-22" situations and a preoccupation with financial requirements rather than with providing the guidance and counselling that might permit some social assistance persons to limit or eliminate their dependence on the "welfare system".

While this year's cases were of a less dramatic variety in that they do not involve the ill, the aged or the problems of illiterates, I believe they still illustrate the concerns I expressed last year regarding the department's attitude and policies towards persons on social assistance. I am more convinced than ever that stress is the source of the problem and that additional resources rather than training in public relations is the answer."

Unfortunately, there is a need to emphasize this point again this year. The following case summary is perhaps as good a way as any to illustrate our ongoing concern:

**#84-23000-40-243**

"In December of 1984 two sisters from northern Saskatchewan contacted my office regarding their treatment by the Department of Social Services in Saskatoon.

The sisters are the mothers of two severely handicapped children, and two other children, all under four years of age. They moved to Saskatoon so that their children could get the treatment they needed from the Children's Rehabilitation Centre at University Hospital.

The complaint was that Social Services was delaying in provision of adequate assistance, and would not furnish them with a furniture allowance to buy the furniture they need for an unfurnished suite they had located.

There had been no contact between the department and the Indian Affairs worker in the north, nor had there been any contact between Social Services and the Children's Rehabilitation Centre until the latter became aware of the problems the girls were having in obtaining financial assistance, and finding a suitable place to live. This was almost two months after they came from the north to bring their children to the Centre.

The girls were not given adequate assistance until there was an intervention by the Metis Society, the Children's Rehabilitation Centre and my office. It was not until these agencies intervened that the Department of Social Services responded to the needs of these women *and their children*.

My investigation concluded that the Department of Social Services had been insensitive to the clients' needs in this instance, and that this insensitivity caused much hardship to these women and their children. Had Social Services checked with Indian Affairs or the Children's Rehabilitation Centre when the girls first applied for assistance, much of this hardship and delay could have been avoided.

I found the complaint to be substantiated, but for reasons that escape me yet, the department has not accepted this conclusion and continue to insist that their actions were fair and reasonable and that no undue hardship was caused by its actions and omissions."

## **VII. WELFARE REFORM — IS IT WORKING?**

The answer to this question very much depends upon the test that one applies and an understanding of the "real" goals of the program. In our case, the test that we would apply may well not be that of the department or the minister because we expect the program to serve the clients fairly and to not, unnecessarily, add to their difficulties. When viewed from this perspective, the welfare reform program certainly does not pass the test.

We are seeing a lot of "hurt" in the welfare reform program and this is being reflected in both our statistics and our investigations. For example, the first twenty months since the changes were introduced

has seen a dramatic increase in social assistance complaints to my office. The increase is in the order of 77%. In 1985, social assistance complaints totalled 317, or approximately one-fifth of all our complaints against the provincial government. This class of complaint totalled only 107 in 1982 and 179 in 1983. By way of comparison, our overall increase in all complaints against the government for the same period was in the order of 39%.

While many of our investigations are not yet concluded, there are also some early indications of serious problems. This is particularly true in the case of long-term recipients who have been categorized for the first time, as being "employable" or "partially employable". An example in point involves a divorced woman in her fifties in a rural area who was expected to cease her assistance to her ailing parents and use the "family" car to travel many miles to seek out employment opportunities. This woman had virtually *no* work experience before she became caught up in "welfare reform".

We have also seen difficulties in the working conditions of persons who have been "required" to take employment with employers approved by the department. We have seen examples of employees who have had to work 10 hours a day seven days a week for 40 hours pay per week and other examples where employers have been unwilling to pay overtime of any kind for six or seven days of work per week, i.e. — only one day off every two or three weeks.

*For the above reasons, I sincerely hope that there will be a re-assessment of the program, or at least of its hard edges, by an independent and qualified individual or a group such as the School of Social Work. As the government's welfare reform program will soon be two years old, this would be a logical time for a review to take place.*

#### **VIII. THE SOCIAL SERVICES APPEAL BOARD — SOME PROBLEMS**

As indicated previously, we have experienced an increase in complaints about the provincial social assistance system in the order of 77% since the introduction of "welfare reform" in 1984. As most of these complainants are referred to their appeal rights and encouraged to return if they've been unsuccessful, it is not surprising that we have been devoting more investigative time than before to decisions by the Social Services Appeal Board. This has increased our insight into the decisions and procedures of the Board and has given rise to a number of concerns. These concerns have taken the

form of findings and recommendations to improve the Board's procedures and approaches. To date, our suggestions, findings and recommendations have been of little effect.

*On the basis of our investigations, there is a need for at least two amendments to the legislation that established the Board, for some attitudinal changes on the part of the Board and for several improvements in the way the Board hears its cases and the kind and quality of evidence it has before it when it makes its decisions.*

#### **Legislative Changes**

1. Because there are no procedural rules of general application in place with respect to Saskatchewan tribunals, some tribunals such as the Criminal Injuries Compensation Board and Police Commission possess the authority to reconsider a case and vary past decisions, while other tribunals such as the Rent Appeal Commission and the Social Services Appeal Board lack this kind of authority. In some other Canadian jurisdictions a tribunal could not be established without the legislative authority to reconsider its own decisions and to vary its orders. As indicated, this is not the case in Saskatchewan. In the latter situation, if a tribunal makes a mistake it cannot reconsider the matter and rectify that mistake. In the case of this Board, social assistance persons must present a fresh application for social assistance and if it is not granted, go through the appeal steps before the Social Services Appeal Board can take a second look at the same problem. These persons may well be forced to go through these steps without being in receipt of any social assistance and even if they are successful, they will not be reimbursed from the time of their first application. This kind of consequence is unacceptable in any circumstances but of particular hardship to persons and families who may be without any income whatsoever during the various appeal periods.

*The need for an amendment to the legislation to permit the Social Services Appeal Board to reconsider its decisions has been the subject of debate for several years with the department and several ministers. I would emphasize that the need for this type of amendment has not been debated by the Social Services Appeal Board or its Chairman as they recognize the need for greater flexibility. Notwithstanding this fact, there has been no indication whatsoever that the overdue amendments will be forthcoming. The minister has a decision to make.*

2. The second need for legislative change has also been the subject of years of debate with the department and its ministers. The issue is whether the Board should limit its decisions to the four corners of the regulations governing the social assistance rules in this province, as is now the case, or whether it should have the discretion to take the 'hard edges' off the social assistance system in unique situations. Given the nature of my business, I can say with considerable certainty that man has not yet devised a set of rules that will work perfectly in all circumstances. Social assistance cases are no exception and indeed, because of the presence of very many rules there is a decided increase in the risk that persons and families, will be unfairly caught and suffer unnecessarily, because of the strict application of the S.A.P. rules and regulations.

Neither the department nor the Board perceives its role as anything greater than being an appellate body with respect to the strict application of the regulations, although it should be said in fairness to the Board, that it has, on occasion, been willing to recognize individual situations of hardship if the person is up against the department's policies rather than its regulations. In my view, the legislation currently provides the Board *with ample authority* to make exceptions on an occasional basis, to recognize unusual circumstances and to retain public confidence in the system. The department and the Board do not share my view of the legalities or the need for this kind of role.

*Given the department's view, it may well be that a change in legislative language is necessary to remove any doubt. Again, my efforts to obtain this kind of legislative change have been in vain.*

#### **Attitudes and approaches**

I would preface this comment by pointing out that the "average" tribunal in Saskatchewan is composed of well motivated, part-time, lay persons who do the best they can with limited legal and clerical support and inadequate resources. I would place the Social Services Appeal Board in this category. While there is no need to over-legalize or over-formalize tribunal hearings, the absence of legal and technical advice often results in a pretty subjective approach to decision-making and some paternalism. This has also proven to be the case with respect to this Board. Where we have identified these kinds of attitudinal issues, we have conveyed our findings to the appeal board and candidly discussed our concerns with its chair-

man. As these discussions have been productive, it is not one of my major concerns at this time.

*However, there are a number of examples in our caseload where the Board has certainly taken a 'strict constructionist' approach to its task and has been 'tougher' than the department on the social assistance persons who appear before it.*

#### **Procedural fairness**

In my view, this is an area of major difficulty for the Board and in the context of a recent case, we collected our case experience and put forward the following recommendations:

1. THAT notwithstanding some administrative inconvenience to the board and its members, a S.A.P. client's case should invariably be adjourned if he or she has an advocate and if the advocate is not able to attend and represent the client.
2. THAT the Social Services Appeal Board ensure that all departmental files relevant to the issue under appeal will be available to the board and THAT the practise of using summaries prepared by the department be discontinued.
3. THAT the Social Services Appeal Board ensure that all departmental information before it is also available to any social assistance persons who are parties to an appeal.
4. THAT the Social Services Appeal Board establish as a matter of policy, that all information obtained outside the course of the hearing, or during a hearing, be communicated to the social assistance party to the appeal in order to provide he or she with an adequate opportunity to qualify and rebut such information or evidence.

*To date, the Social Services Appeal Board has not accepted the above recommendations. I would be very interested in the minister's view of these issues.*

#### **IX. CHARTER ISSUES — A NEW CHALLENGE FOR OMBUDSMEN**

The bringing into force of Canada's new Constitution and in particular, the Charter of Rights and Freedoms has added an entirely new dimension to our work. The provinces and their agencies are as bound by the provisions of the Charter as the federal government

and we are regularly encountering these issues in the course of making decisions on our investigative files. All the provincial Ombudsmen *must* consider whether government actions and decisions are "contrary to law" and there can be no higher legal dictate than the Constitution.

The bureaucracy has not yet recognized that many of the accepted "rules of the game" have been radically and permanently changed. Those in the know predicted that the Constitution would create a changed Canadian society but the Saskatchewan public service is slow in coming to this realization and is puzzled by these kinds of issues when we raise them.

The reticence and confusion of public servants is entirely understandable. For years, I have been attempting to convince departments and agencies that provincial legislation is paramount and cannot be changed by either internal department policy or the whim of their minister. These changes can only be accomplished by amendments to the legislation. Now we are in the unhappy position of attempting to convince the bureaucracy that *even* provincial law has to meet the standards established by the new Constitution. Additionally, the public service has been lulled into a false sense of security on this subject because there is a belief that the problem was already addressed when the government introduced omnibus legislation to change a small part of the provincial legislation that will ultimately have to be amended. The amendments to date have only dealt with *some* of the more obvious needs and was little more than a cosmetic change to remove obvious gender discrimination. There is also a feeling in the public service that constitutional issues are primarily a "lawyer's game" and of not much direct consequence to their work. Nothing could be further from the truth.

*There is a clear need to advance the insight of the senior levels of the public service to the practical consequences of the Charter on their programs and legislation. I would urge the Department of Justice, as the department most in tune with these changes, to embark on a public service education program with respect to the more obvious dictates of the new Constitution.*

The Constitutional implications for the executive branch are immense and not limited to unimportant or peripheral issues. For example, the provincial mandatory retirement provisions and all its employment consequences have been in legal doubt for some years now and distinctions in pension benefits between males and females under the various government pension schemes are also in great part, unconstitutional. These are issues that need to receive a

lot of careful consideration as it is naive in the extreme to not initiate legislative change because there is a slim possibility that the courts will somehow opt for the status quo. It is also very unfair, to the pensioners in this example, to postpone the inevitable until persons have been put to the time and expense of court challenges.

In many areas, our society will be a different one because of the Constitution and to hope otherwise and do nothing is the worst kind of procrastination.

**X. IF OUR CLIENTS' PROBLEMS JUSTIFY CHANGES IN  
GOVERNMENT PROGRAMS AND LEGISLATION – WHY  
ARE THESE CLIENTS DENIED A REMEDY?**

This is not a new problem. Examples abound and this particular frustration was the subject of some specific comment in my 1983 Annual Report. In a list of suggestions to public servants on "how not to" respond to Ombudsman recommendations, I put the problem this way:

(A response that) "ACCEPTS THOSE PARTS OF THE OMBUDSMAN'S RECOMMENDATIONS THAT ARE BEST FOR GOVERNMENT IN THAT THEY PREVENT REOCCURRENCES OF THE PROBLEM, WHILE AT THE SAME TIME PROVIDING NO SPECIFIC RELIEF FOR THE INDIVIDUALS WHO ONLY CAME TO THE OMBUDSMAN BECAUSE THEY SUFFERED UNNECESSARILY UNDER THE UNREFORMED SYSTEM.

COMMENT: This kind of response makes the public service the exclusive beneficiary of the benefits of the Ombudsman's work and relegates complainants with serious problems to the category of cannon fodder for government system improvements. This is a totally unacceptable response given my statutory duties to the members of the public who bring their problems to my office."

Notwithstanding my plea in 1983, the problem continues. A few examples from our 1985 caseload:

**#83-1000-10-04**

This farmer's problem arose out of a decision by the Farm Purchase Program to deny his application for an interest subsidy because his

off-farm income was just over the limit of \$35,000. He was over the limit because his wife's earnings had been brought into the calculation of earnings for the *three* previous years *even though* he had only married a year before his application. Because of the language of the regulations and the policy governing this calculation, the department had correctly followed the literal meaning of the regulations and policy even if it was an incongruous result.

I pointed out the absurdity of this situation and recommended that the regulations be clarified. About a year later, amendments were forthcoming to eliminate the problem. I then sought a remedy for our client. This was refused even though he would have qualified for the interest subsidy if he had applied under the revised rules. *This result is just about as absurd as the original problem and the denial of a remedy to our client should be reconsidered by the Minister of Agriculture.*

**#84-24020-00-02**

This complainant approached our office because she had been denied 50% of her deceased husband's public service pension. She had been denied because of the provisions of the pension legislation that disentitled widows if a widow married after her husband had turned 60 and if their birth dates were more than five years apart. This kind of discrimination is now prohibited by The Charter of Rights and Freedoms but the Charter did not apply at the time the denial occurred. However, it was clearly 'improperly discriminatory' within the meaning of that term in *The Ombudsman Act* even before the Charter took effect.

Having identified the Charter problem with the legislation and conveyed that concern to the Public Employees Benefit Agency, we were advised within a month that the "offending clause" would be repealed at the next session of the legislature. However, we were also advised that "unfortunately, the clause will not be retroactive and will not allow us to pay a pension to Mrs. \_\_\_\_\_."

Again, no remedy to the very person who first brought the problem to our attention and who was the proximate cause of a legislative change that will definitely benefit others in her situation. Again, a government system has taken the 'benefit' from our work but not the 'burden'. *This decision should also be reconsidered by the minister-in-charge.*

P.S. Once again, the Public Employees Benefit Agency reacted positively by authorizing a retroactive pension entitlement to this client in March of 1986.

## **XI. APPEALS FROM RENTALSMAN DECISIONS — ANOTHER NEED FOR LEGISLATIVE CHANGE**

For the past three years, we have identified some hardship for persons attempting to appeal Rentalsman decisions to the Rent Appeal Commission. This occurs because the Act states that the persons adversely affected by the Rentalsman's decisions must launch an appeal at the Commission's offices in Saskatoon *within 15 days of the Rentalsman's decision*.

Unlike the rules for filing documents in the courts, the 15 day period includes week-ends and statutory holidays, even though the Commission's offices are closed on those days. For persons residing outside of Saskatoon, the vagaries of the mail service are a significant additional factor as the appeal document must be physically received in the Commission's offices by the fifteenth day. In a recent example, the Rentalsman made his decision on December 19, 1984, and the Regina tenants received his decision on Christmas Eve.

In result, they had to have their formal appeal at the Commission's offices by January 3, 1985. During this 15 day period, there was five days lost before they knew of the Rentalsman's decision and of the remaining 10 days, there were five week-end days and statutory holidays. In effect, the tenants had only five days to appeal and had to "buck" the Xmas mail rush to do so. They were not successful.

When we first raised the problem in 1983, the Commission and the minister agreed that there was a problem and indicated their willingness to change the legislation. I recommended an extension of the appeal time to 30 days and the exclusion of week-ends and statutory holidays. The response was a proposal to extend the appeal period for 30 days by an amendment to *The Residential Tenancies Act*. I had assumed that the problem had been resolved until we received three similar complaints in 1985. *The amendment is needed as soon as possible and should be introduced even if other amendments to the Act are not yet ready for introduction.*

## **XII. OUR VIEW OF THE QUALITY OF THE SERVICE TO THE PUBLIC PROVIDED BY GOVERNMENT DEPARTMENTS AND AGENCIES — THE LAST 'STAR-RATINGS'**

The purpose of this chart is to rate the quality of the service provided to the Saskatchewan public by its public service. Service to the (occasionally-suffering) Saskatchewan public by a department or

agency ranges from a rating of one-star for less than minimum service, to a five-star rating for exceptional service. The following ratings are the collective view of my staff and are based on our many contacts with our clients and the public service.

|             |                                                                                                                                                                                                                    |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ★           | Less than minimum service                                                                                                                                                                                          |
| ★★          | Minimum service                                                                                                                                                                                                    |
| ★★★         | Average service                                                                                                                                                                                                    |
| ★★★★        | Very good service                                                                                                                                                                                                  |
| ★★★★★       | Excellent service                                                                                                                                                                                                  |
| To be rated | This department or agency cannot be rated yet as our case experience is too limited.                                                                                                                               |
| Provisional | This department or agency is approved at a given level on condition that deficiencies will be remedied within a specific period of time or in recognition of the fact that it is in the course of re-organization. |

|                                              | 1984    | 1985 |
|----------------------------------------------|---------|------|
| <b>ADVANCED EDUCATION AND MANPOWER</b> ..... | ★★★ 1/2 | ★★★  |
| <b>AGRICULTURE</b>                           |         |      |
| — General .....                              | ★★★★    | ★★★  |
| — Lands Branch .....                         | ★★★     |      |
| — Saskatchewan Crop Insurance Board .....    | ★★★ 1/2 | ★★★  |

**CONSUMER AND  
COMMERCIAL AFFAIRS**

1984

1985

— General .....

★★★½

★★★

— Rentalsman .....

★★½

★★½

— Rent Appeal Commission

★★★

★★½

**EDUCATION** .....

★★★★

★★★★

**ENVIRONMENT** .....

★★★

★★★

**HEALTH**

— General .....

★★★½

★★★

— Saskatchewan Hospital Services  
Plan .....

★★★★

★★★

— Saskatchewan Medical Care  
Insurance Commission .....

★★★★

★★★½

**HIGHWAYS AND TRANSPORTATION**

— General .....

★★★★

★★★

— Highway Traffic Board .....

★★★½

★★★½

**JUSTICE**

|                                                 | 1984 | 1985 |
|-------------------------------------------------|------|------|
| - General .....                                 | ★★★½ | ★★★  |
| - Corrections Branch .....                      | ★★★½ | ★★★  |
| - Criminal Injuries<br>Compensation Board ..... | ★★★  | ★★   |
| - Saskatchewan Police<br>Commission .....       | ★★★½ | ★★★  |
| - Saskatchewan Human<br>Rights Commission ..... | ★★★½ | ★★★  |

**LABOUR**

|                                  |     |     |
|----------------------------------|-----|-----|
| - General .....                  | ★★½ | ★★½ |
| - Workers' Advocate .....        | ★★★ | ★★½ |
| - Labour Services Division ..... | ★★  | ★★  |

**MUNICIPAL HOUSING  
AUTHORITIES .....**

|     |     |
|-----|-----|
| ★★½ | ★★½ |
|-----|-----|

**PARKS AND RENEWABLE  
RESOURCES .....**

|      |     |
|------|-----|
| ★★★½ | ★★★ |
|------|-----|

**PUBLIC SERVICE  
COMMISSION .....**

|      |     |
|------|-----|
| ★★★½ | ★★½ |
|------|-----|

**REVENUE AND FINANCIAL SERVICES**

1984

1985

— General .....

★★★½

★★★½

— Public Employees Benefits Agency .....

★★★★

★★★★

**RURAL DEVELOPMENT .....**

★★★½

★★★

**SASKATCHEWAN GOVERNMENT INSURANCE**

— General .....

★★★½

★★★

— Claims .....

★★★

★★★

— Motor Licensing Division .....

★★★★

★★★½

**SASKATCHEWAN HOUSING CORPORATION.....**

★★

★★

**SASKATCHEWAN POWER CORPORATION.....**

★★★★

★★★★

**SASKATCHEWAN TELECOMMUNICATIONS.....**

★★★★

★★★

**SASKATCHEWAN WATER CORPORATION.....**

To be Rated

★★★

| <b>SOCIAL SERVICES</b>                              | 1984 | 1985 |
|-----------------------------------------------------|------|------|
| — General .....                                     | ★★½  | ★★½  |
| — Community and Personal<br>Services Division ..... | ★★½  | ★★   |
| — Regional Services Division .....                  | ★★½  | ★★   |
| — Provincial Social Services<br>Appeal Board .....  | ★★★  | ★½   |
| <b>TOURISM AND SMALL BUSINESS.</b>                  | ★★★½ | ★★★  |
| <b>URBAN AFFAIRS.</b> .....                         | ★★★½ | ★★★½ |
| <b>WORKERS' COMPENSATION<br/>BOARD</b> .....        | ★★★½ | ★★★  |



**PART IV**  
**STATISTICS**

|                                                                                                     |       |
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| Total complaints received — 1985 .....                                                              | p. 69 |
| Complaints other than against<br>Saskatchewan departments and agencies .....                        | p. 69 |
| Complaints received against<br>Saskatchewan departments and agencies — 1985 .....                   | p. 70 |
| Municipal distribution of complaints against<br>Saskatchewan departments and agencies — 1985 .....  | p. 72 |
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| — 1985 .....                                                                                        | p. 81 |



**PART IV**  
**STATISTICS**

**TOTAL COMPLAINTS RECEIVED — 1985**

|                 | Against Saskatchewan<br>Departments and Agencies | Not Against<br>Saskatchewan<br>Departments<br>and Agencies | Total |
|-----------------|--------------------------------------------------|------------------------------------------------------------|-------|
| January .....   | 103                                              | 138                                                        | 241   |
| February .....  | 142                                              | 111                                                        | 253   |
| March .....     | 138                                              | 106                                                        | 244   |
| April .....     | 151                                              | 112                                                        | 263   |
| May .....       | 180                                              | 197                                                        | 377   |
| June .....      | 148                                              | 198                                                        | 346   |
| July .....      | 133                                              | 168                                                        | 301   |
| August .....    | 123                                              | 157                                                        | 280   |
| September ..... | 122                                              | 131                                                        | 253   |
| October .....   | 120                                              | 151                                                        | 271   |
| November .....  | 109                                              | 162                                                        | 271   |
| December .....  | 141                                              | 151                                                        | 292   |
|                 | 1,610                                            | 1,782                                                      | 3,392 |

**COMPLAINTS OTHER THAN AGAINST  
SASKATCHEWAN DEPARTMENTS AND AGENCIES  
January 1 to December 31, 1985**

| Category               | Number | %    |
|------------------------|--------|------|
| Consumer .....         | 543    | 30.5 |
| Federal .....          | 268    | 15.0 |
| Local Government ..... | 106    | 5.9  |
| Professional .....     | 56     | 3.2  |
| Private .....          | 292    | 16.4 |
| Courts/Legal .....     | 224    | 12.6 |
| Family .....           | 36     | 2.0  |
| Medical .....          | 16     | .9   |
| Other .....            | 241    | 13.5 |
|                        | 1,782  | 100% |

# **COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1985**

| Department — Agency<br>Board and Commission           | Department<br>Code No. | Totals |
|-------------------------------------------------------|------------------------|--------|
| Agriculture — General .....                           | 1000-10                | 7      |
| — Lands Branch .....                                  | 1000-30                | 15     |
| Lands Allocation Appeal Board .....                   | 1020-00                | 2      |
| Milk Control Board .....                              | 1040-00                | 2      |
| Saskatchewan Crop Insurance Board .....               | 1050-00                | 8      |
| Agricultural Credit Corporation of Saskatchewan ..... | 1060-00                | 5      |
| Saskatchewan Beef Stabilization Board .....           | 1090-00                | 1      |
| Department of Justice — General .....                 | 2000-10                | 11     |
| — Court Services Branch .....                         | 2000-20                | 9      |
| — Corrections Branch .....                            | 2000-30                | 170    |
| Administrator of Estates .....                        | 2010-00                | 1      |
| Land Titles .....                                     | 2020-00                | 1      |
| Official Guardian .....                               | 2030-00                | 4      |
| Criminal Injuries Compensation Board .....            | 2040-00                | 5      |
| Saskatchewan Legal Aid Commission .....               | 2060-00                | 9      |
| Saskatchewan Police Commission .....                  | 2070-00                | 1      |
| Saskatchewan Human Rights Commission .....            | 2100-00                | 5      |
| Consumer and Commercial Affairs                       |                        |        |
| — Corporations Branch .....                           | 3000-20                | 4      |
| — Licensing and Investigation .....                   | 3000-40                | 6      |
| — Rentalsman .....                                    | 3000-50                | 20     |
| — Rent Appeal Commission .....                        | 3000-60                | 12     |
| — Saskatchewan Securities Commission .....            | 3000-70                | 3      |
| — Provincial Mediation Board .....                    | 3000-80                | 9      |
| Advanced Education and Manpower — General .....       | 4000-10                | 23     |
| — Wascana Institute .....                             | 4000-20                | 2      |
| — Apprenticeship and Standards .....                  | 4000-30                | 1      |
| Community Colleges .....                              | 4500-10                | 4      |
| Co-operation and Co-op Development .....              | 5000-10                | 1      |
| Culture and Recreation .....                          | 6000-10                | 2      |
| Education — General .....                             | 7000-10                | 7      |
| Teacher's Superannuation Commission .....             | 7030-00                | 1      |
| Environment — General .....                           | 8000-10                | 5      |
| Saskatchewan Water Corporation .....                  | 8200-10                | 14     |
| Water Appeal Board .....                              | 8300-10                | 3      |
| Executive Council .....                               | 9000-10                | 1      |
| Department of Finance .....                           | 10000-10               | 1      |
| Department of Revenue and Financial Services —        |                        |        |
| General .....                                         | 11000-10               | 4      |
| — Revenue Division .....                              | 11000-30               | 6      |
| Public Employees Benefits Agency .....                | 11000-40               | 7      |

| Department — Agency<br>Board and Commission       | Department<br>Code No. | Totals |
|---------------------------------------------------|------------------------|--------|
| Supply and Services — General .....               | 12000-10               | 4      |
| Saskatchewan Government Printing Company .....    | 12010-00               | 1      |
| Health — General .....                            | 13000-10               | 25     |
| — Psychiatric Services Branch .....               | 13000-20               | 4      |
| — Saskatchewan Aids to Independent Living .....   | 13000-30               | 2      |
| — Saskatchewan Dental Plan .....                  | 13000-50               | 2      |
| — Saskatchewan Hospital Services Plan .....       | 13000-60               | 5      |
| — Saskatchewan Prescription Drug Plan .....       | 13000-70               | 3      |
| — Continuing Care Division .....                  | 13000-80               | 9      |
| Alcoholism Commission .....                       | 13010-00               | 1      |
| Saskatchewan Medical Care Insurance Commission .. | 13020-00               | 7      |
| Saskatchewan Cancer Foundation .....              | 13030-00               | 1      |
| South Saskatchewan Hospital Centre .....          | 13040-00               | 5      |
| Highways and Transportation .....                 | 14000-10               | 7      |
| Highway Traffic Board .....                       | 14010-00               | 18     |
| Labour — General .....                            | 16000-10               | 4      |
| — Labour Services Division .....                  | 16000-40               | 33     |
| — Occupational Health and Safety Division .....   | 16000-50               | 4      |
| — Safety Services Branch .....                    | 16000-60               | 5      |
| Labour Relations Board .....                      | 16010-00               | 2      |
| Workers' Compensation Board .....                 | 16030-10               | 182    |
| Liquor Licensing Commission .....                 | 16050-00               | 1      |
| Potash Corporation of Saskatchewan .....          | 17030-00               | 1      |
| Saskatchewan Mining Development Corporation ....  | 17050-00               | 1      |
| Saskatchewan Oil and Gas Corporation .....        | 17060-00               | 1      |
| Rural Development — General .....                 | 18000-10               | 6      |
| Local Government Board .....                      | 18030-00               | 3      |
| Provincial Planning Appeal Board .....            | 18040-00               | 1      |
| Saskatchewan Assessment Appeal Board .....        | 18060-00               | 9      |
| Municipal Employees Superannuation Commission ..  | 18090-00               | 1      |
| Saskatchewan Housing Corporation .....            | 18100-00               | 21     |
| Municipal Housing Authorities .....               | 18200-00               | 11     |
| Urban Affairs — General .....                     | 18300-10               | 4      |
| — Property Improvement Grant .....                | 18300-20               | 4      |
| Parks and Renewable Resources .....               | 22000-10               | 29     |
| Saskatchewan Forest Products Corporation .....    | 22010-00               | 1      |
| Social Services — General .....                   | 23000-10               | 8      |
| — Community and Personal Services .....           | 23000-20               | 14     |
| — Regional Services Division .....                | 23000-40               | 315    |
| Social Services Appeal Board (Provincial) .....   | 23020-00               | 11     |
| Public Service Commission — General .....         | 24000-10               | 6      |
| Sask Tel — General .....                          | 25000-10               | 98     |

| Department — Agency<br>Board and Commission       | Department<br>Code No. | Totals       |
|---------------------------------------------------|------------------------|--------------|
| Saskatchewan Government Insurance — General . . . | 26000-10               | 42           |
| — Motor Licencing Division. . . . .               | 26000-20               | 17           |
| — Claims General . . . . .                        | 26000-30               | 219          |
| Saskatchewan Power Corporation . . . . .          | 27000-10               | 70           |
|                                                   |                        | <u>1,610</u> |

**MUNICIPAL DISTRIBUTION OF COMPLAINTS AGAINST  
SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1985**

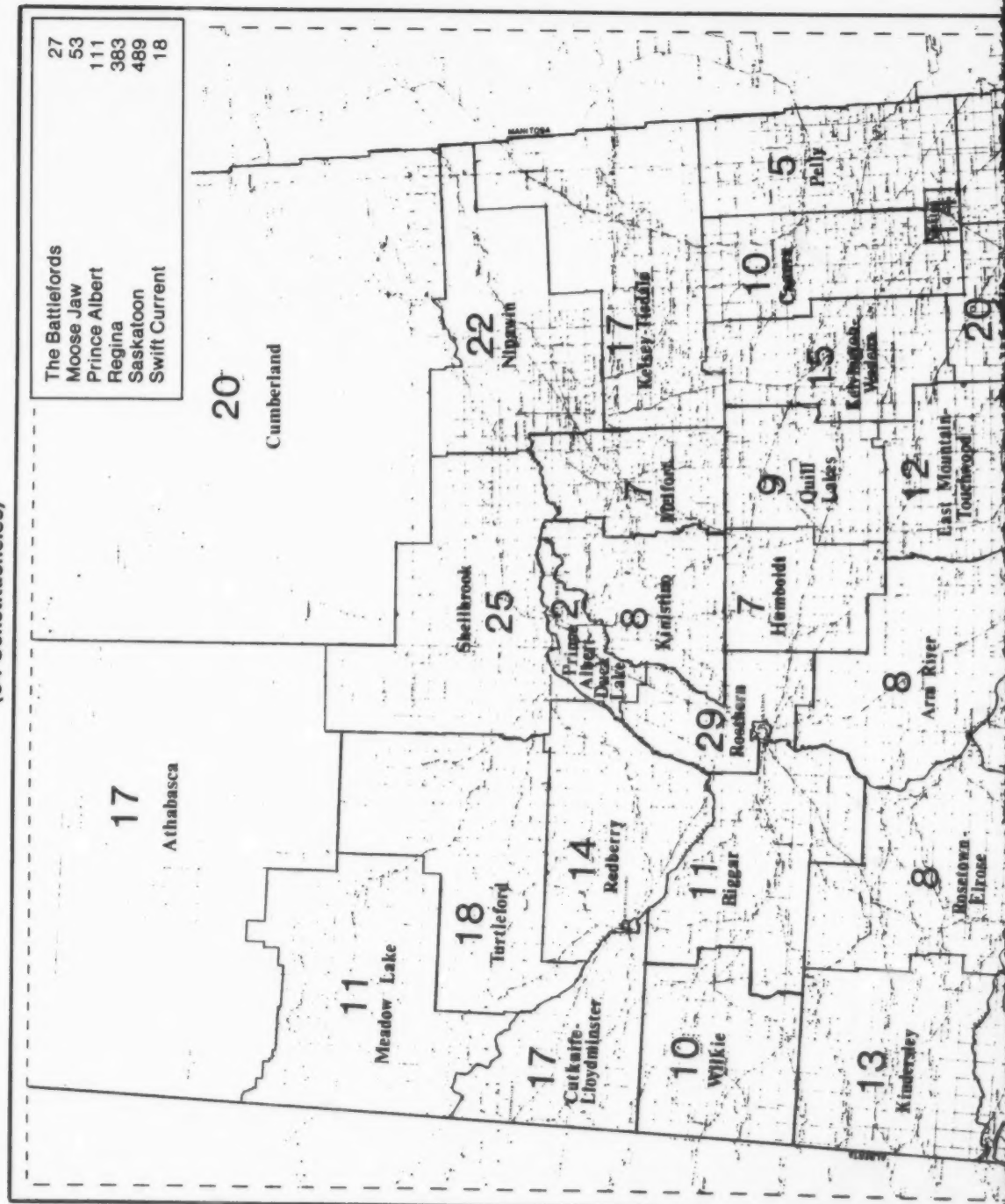
|                           |   |                            |    |
|---------------------------|---|----------------------------|----|
| Albertville. . . . .      | 3 | Christopher Lake . . . . . | 3  |
| Alsask. . . . .           | 2 | Churchbridge . . . . .     | 1  |
| Arcola . . . . .          | 1 | Clavet . . . . .           | 1  |
| Asquith. . . . .          | 3 | Congress . . . . .         | 1  |
| Assiniboia . . . . .      | 3 | Conquest . . . . .         | 1  |
| Avonhurst . . . . .       | 1 | Consul . . . . .           | 1  |
| Avonlea . . . . .         | 1 | Coronach . . . . .         | 2  |
| Balcarres . . . . .       | 1 | Courval . . . . .          | 1  |
| Balgonie. . . . .         | 2 | Craven . . . . .           | 2  |
| Barthel . . . . .         | 1 | Creighton . . . . .        | 7  |
| Battleford . . . . .      | 7 | Crooked River . . . . .    | 1  |
| Beaubier . . . . .        | 1 | Cudworth . . . . .         | 1  |
| Big Beaver . . . . .      | 1 | Cumberland House . . . . . | 1  |
| Big River. . . . .        | 5 | D'Arcy Station . . . . .   | 1  |
| Biggar . . . . .          | 5 | Dalmeny . . . . .          | 1  |
| Birch Hills . . . . .     | 1 | Davidson . . . . .         | 1  |
| Bjorkdale . . . . .       | 1 | Debden . . . . .           | 1  |
| Bredenbury . . . . .      | 1 | Delisle . . . . .          | 1  |
| Broadview . . . . .       | 1 | Delmas . . . . .           | 1  |
| Bromhead . . . . .        | 1 | Denare Beach . . . . .     | 2  |
| Bruno . . . . .           | 1 | Dillon . . . . .           | 2  |
| Buchanan . . . . .        | 1 | Dinsmore . . . . .         | 2  |
| Buffalo Narrows . . . . . | 6 | Duck Lake . . . . .        | 2  |
| Cando . . . . .           | 2 | Dundurn . . . . .          | 4  |
| Canora . . . . .          | 5 | Dysart . . . . .           | 2  |
| Carlton . . . . .         | 3 | Erinferry . . . . .        | 1  |
| Carlyle . . . . .         | 1 | Esterhazy . . . . .        | 4  |
| Carnduff. . . . .         | 1 | Estevan . . . . .          | 13 |
| Carrot River . . . . .    | 2 | Eston . . . . .            | 4  |
| Central Butte . . . . .   | 1 | Foam Lake . . . . .        | 2  |
| Chaplin . . . . .         | 2 | Forget . . . . .           | 2  |
| Chelan . . . . .          | 1 | Fort Qu'Appelle . . . . .  | 2  |
| Chitek . . . . .          | 1 | Fox Valley . . . . .       | 1  |
| Choiceland . . . . .      | 3 | Frontier . . . . .         | 2  |

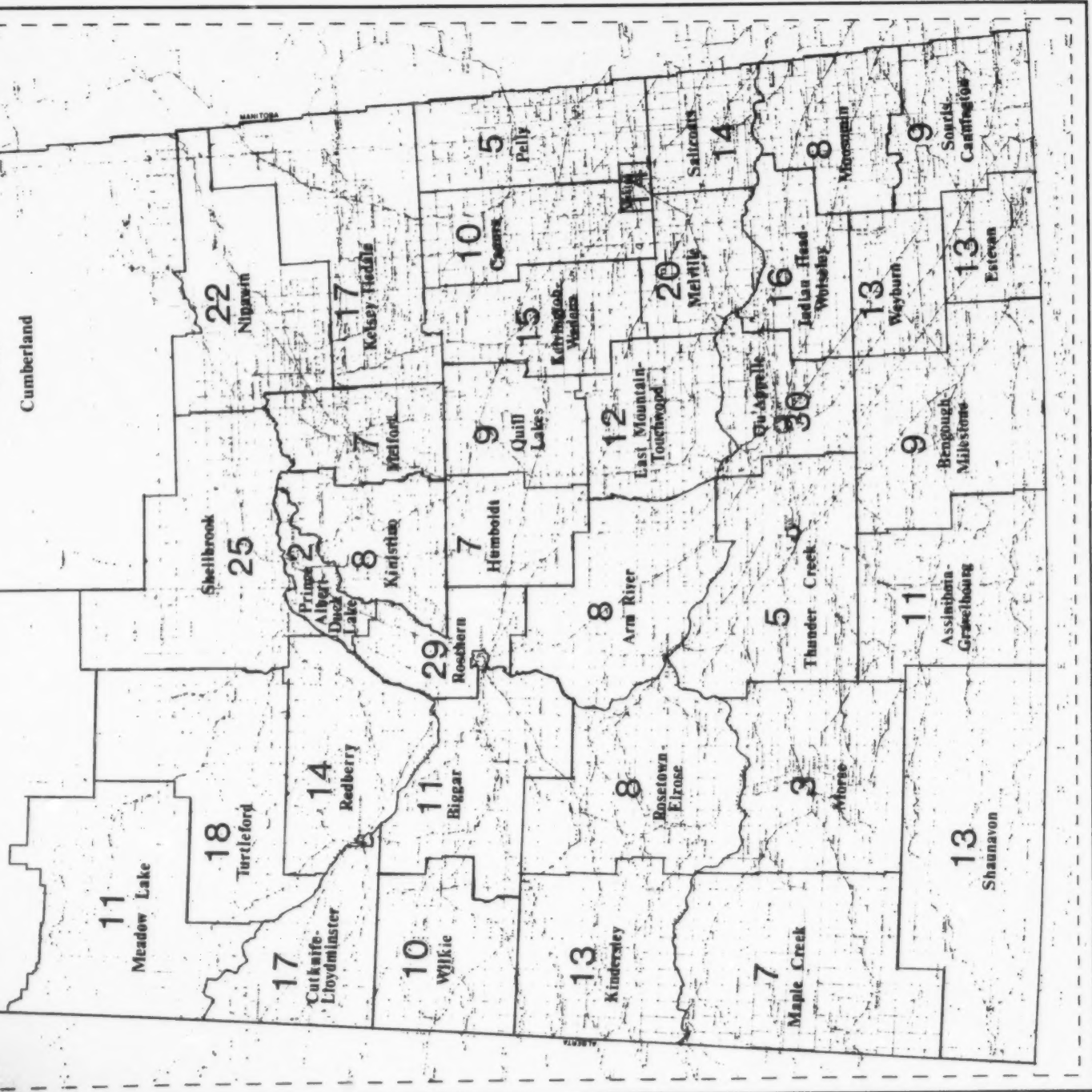
|                 |   |                  |     |
|-----------------|---|------------------|-----|
| Gallivan        | 1 | Lestock          | 1   |
| Gerald          | 1 | Livelong         | 2   |
| Glen Ewen       | 2 | Lloydminster     | 5   |
| Glenbush        | 1 | Loreburn         | 1   |
| Goodsoil        | 1 | Love             | 1   |
| Govan           | 1 | Lucky Lake       | 1   |
| Gravelbourg     | 3 | Lumsden          | 6   |
| Green Lake      | 2 | Macklin          | 4   |
| Grenfell        | 1 | Macrorie         | 1   |
| Griffin         | 1 | Maidstone        | 2   |
| Gronlid         | 1 | Makwa            | 1   |
| Guernsey        | 1 | Mankota          | 4   |
| Hafford         | 4 | Manor            | 1   |
| Hanson Lake     | 1 | Maple Creek      | 3   |
| Hague           | 1 | Marcelin         | 1   |
| Hazlet          | 1 | Marshall         | 4   |
| Herbert         | 1 | Martensville     | 8   |
| Holbein         | 1 | Mayfair          | 2   |
| Holdfast        | 1 | McLean           | 3   |
| Hudson Bay      | 4 | Meadow Lake      | 3   |
| Humboldt        | 5 | Meath Park       | 3   |
| Hyas            | 1 | Medstead         | 1   |
| Ile-a-la-Crosse | 1 | Melfort          | 4   |
| Indian Head     | 6 | Melville         | 16  |
| Invermay        | 1 | Meota            | 2   |
| Ituna           | 1 | Meyronne         | 1   |
| Kamsack         | 2 | Mistatim         | 1   |
| Kelliher        | 1 | Montmartre       | 4   |
| Kelvington      | 3 | Moose Jaw        | 53  |
| Kennedy         | 1 | Morse            | 1   |
| Kenosee Lake    | 1 | Mortlach         | 1   |
| Kerrobert       | 2 | Naicam           | 2   |
| Kindersley      | 5 | Neilburg         | 2   |
| Kinistino       | 2 | Nipawin          | 11  |
| Kinoosao        | 1 | Norquay          | 2   |
| Kipling         | 3 | North Battleford | 20  |
| Kisbey          | 1 | Ogema            | 2   |
| La Loche        | 1 | Osler            | 2   |
| La Ronge        | 4 | Outlook          | 1   |
| Lajord          | 1 | Oxbow            | 2   |
| Lake Alma       | 1 | Paradise Hill    | 1   |
| Landis          | 1 | Parkerview       | 1   |
| Lang            | 1 | Paynton          | 1   |
| Langenburg      | 1 | Penn             | 1   |
| Langham         | 3 | Pennant Station  | 1   |
| Lanigan         | 1 | Pierceland       | 4   |
| Leader          | 2 | Pinehouse Lake   | 5   |
| Leask           | 1 | Porcupine Plain  | 6   |
| Lebret          | 1 | Prairie River    | 1   |
| Lemberg         | 1 | Preeceville      | 2   |
| Leross          | 2 | Prince Albert    | 111 |
|                 |   | Prud'homme       | 1   |

|                     |     |                        |    |
|---------------------|-----|------------------------|----|
| Qu'Appelle .....    | 1   | Tisdale .....          | 2  |
| Quill Lake .....    | 1   | Tramping Lake .....    | 1  |
| Rabbit Lake .....   | 1   | Tuffnell .....         | 3  |
| Radisson .....      | 1   | Turtleford .....       | 1  |
| Regina .....        | 383 | Unity .....            | 1  |
| Regina Beach .....  | 8   | Val Marie .....        | 1  |
| Richard .....       | 1   | Vawn .....             | 1  |
| Richlea .....       | 1   | Vonda .....            | 2  |
| Ridgedale .....     | 1   | Wadena .....           | 1  |
| Rocanville .....    | 1   | Wakaw .....            | 1  |
| Rockglen .....      | 1   | Waldheim .....         | 2  |
| Rockhaven .....     | 1   | Warman .....           | 5  |
| Rose Valley .....   | 4   | Watson .....           | 3  |
| Rosetown .....      | 3   | Wawota .....           | 1  |
| Rosthern .....      | 3   | Weldon .....           | 1  |
| Saltcoats .....     | 1   | Weyakwin .....         | 1  |
| Sandy Bay .....     | 2   | Weyburn .....          | 9  |
| Saskatoon .....     | 489 | White City .....       | 3  |
| Sedley .....        | 1   | White Fox .....        | 4  |
| Semans .....        | 1   | Whitewood .....        | 1  |
| Shaunavon .....     | 4   | Wilcox .....           | 1  |
| Shell Lake .....    | 1   | Wilkie .....           | 1  |
| Shellbrook .....    | 2   | Willow Bunch .....     | 1  |
| Shipman .....       | 3   | Wollaston Lake .....   | 1  |
| Smeaton .....       | 2   | Wolseley .....         | 3  |
| Snowden .....       | 1   | Wynyard .....          | 2  |
| Southey .....       | 4   | Yarbo .....            | 1  |
| Spalding .....      | 1   | Yellow Grass .....     | 1  |
| Spiritwood .....    | 2   | Yorkton .....          | 14 |
| Springside .....    | 1   | Zenon Park .....       | 3  |
| Spruce Home .....   | 3   | <b>Out of Province</b> |    |
| Spruce Lake .....   | 1   | Alberta .....          | 10 |
| Spy Hill .....      | 1   | British Columbia ..... | 7  |
| Stockholm .....     | 2   | Manitoba .....         | 8  |
| Stoughton .....     | 1   | Nova Scotia .....      | 1  |
| Strasbourg .....    | 1   | Ontario .....          | 2  |
| Stump Lake .....    | 1   | Quebec .....           | 1  |
| Sturgis .....       | 1   |                        |    |
| Swift Current ..... | 18  |                        |    |

# GEOGRAPHIC DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1985

PROVINCIAL CONSTITUENCIES  
The Representation Act 1981  
(64 Constituencies)





# COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1985

| Department - Agency<br>Board and Commission  | Department<br>Code No. | Resolved | Rectified | Not<br>Substant' | No<br>Juris. | Discont. | Totals |
|----------------------------------------------|------------------------|----------|-----------|------------------|--------------|----------|--------|
| Agriculture — General                        | 1000-10                | —        | —         | —                | 1            | 3        | 4      |
| — Lands Branch                               | 1000-30                | —        | —         | 7                | 1            | 4        | 12     |
| Agricultural Implements Board                | 1010-00                | —        | —         | 1                | —            | —        | 1      |
| Lands Allocation Appeal Board                | 1020-00                | —        | 1         | —                | —            | —        | 1      |
| Milk Control Board                           | 1040-00                | —        | —         | 2                | —            | —        | 2      |
| Saskatchewan Crop Insurance Board            | 1050-00                | —        | —         | 1                | —            | 5        | 6      |
| Saskatchewan FarmStart Corporation           | 1060-00                | —        | —         | 2                | —            | 4        | 6      |
| Department of Justice — General              | 2000-10                | 1        | —         | 1                | 3            | 6        | 11     |
| — Court Services Branch                      | 2000-20                | 2        | —         | 1                | 2            | 4        | 9      |
| — Corrections Branch                         | 2000-30                | 21       | 12        | 72               | 5            | 64       | 174    |
| Land Titles                                  | 2020-00                | —        | 1         | 2                | —            | —        | 3      |
| Official Guardian                            | 2030-00                | 1        | —         | 3                | —            | —        | 4      |
| Criminal Injuries Compensation Board         | 2040-00                | 1        | 2         | 1                | —            | —        | 4      |
| Saskatchewan Legal Aid Commission            | 2060-00                | 1        | —         | 1                | —            | 8        | 10     |
| Saskatchewan Police Commission               | 2070-00                | —        | —         | 1                | —            | —        | 1      |
| Saskatchewan Human Rights<br>Commission      | 2100-00                | —        | 2         | 1                | —            | 3        | 6      |
| Consumer and Commercial Affairs —<br>General | 3000-10                | —        | —         | 1                | —            | —        | 1      |
| — Corporations Branch                        | 3000-20                | 1        | —         | 1                | —            | —        | 4      |
| — Insurance and Real Estate Branch           | 3000-30                | —        | 2         | —                | —            | 2        | 2      |
| — Licensing and Investigation                | 3000-40                | —        | —         | 1                | —            | —        | 5      |
| — Rentalsman                                 | 3000-50                | 3        | —         | 7                | —            | 10       | 20     |
| — Rent Appeal Commission                     | 3000-60                | —        | 1         | —                | —            | 1        | 2      |
| — Saskatchewan Securities<br>Commission      | 3000-70                | —        | —         | —                | —            | 1        | 1      |
| — Provincial Mediation Board                 | 3000-80                | —        | —         | 4                | 1            | 1        | 6      |

| Department - Agency<br>Board and Commission                     | Department<br>Code No. | Resolved | Rectified | Not<br>Substan't | No<br>Juris. | Discont. | Totals |
|-----------------------------------------------------------------|------------------------|----------|-----------|------------------|--------------|----------|--------|
| Advanced Education and<br>Manpower - General .....              | 4000-10                | 3        | 1         | 6                | 3            | 7        | 20     |
| - Wascana Institute .....                                       | 4000-20                | -        | -         | -                | -            | 2        | 2      |
| - Apprenticeship and Standards .....                            | 4000-30                | -        | -         | -                | -            | 1        | 1      |
| Community Colleges .....                                        | 4500-10                | -        | -         | -                | -            | 1        | 1      |
| Co-operation and Co-op Development .....                        | 5000-10                | -        | -         | -                | -            | 1        | 1      |
| Saskatchewan Arts Board .....                                   | 6010-00                | -        | 1         | -                | -            | -        | 1      |
| Education - General .....                                       | 7000-10                | 2        | -         | -                | -            | 3        | 5      |
| Teacher's Superannuation Commission ..                          | 7030-00                | -        | 1         | -                | -            | -        | 1      |
| Environment - General .....                                     | 8000-10                | -        | 4         | 1                | -            | 4        | 9      |
| Saskatchewan Water Corporation .....                            | 8200-10                | 1        | -         | -                | -            | 3        | 4      |
| Water Appeal Board .....                                        | 8300-10                | -        | -         | -                | -            | 1        | 1      |
| Executive Council .....                                         | 9000-10                | -        | -         | -                | 1            | -        | 1      |
| Department of Finance .....                                     | 10000-10               | -        | -         | -                | 1            | -        | 1      |
| Department of Revenue and Financial<br>Services - General ..... | 11000-10               | 1        | -         | 1                | 1            | -        | 3      |
| - Revenue Division .....                                        | 11000-30               | 1        | -         | 2                | -            | 2        | 5      |
| Public Employees Benefits Agency .....                          | 11000-40               | 1        | -         | 1                | -            | -        | 2      |
| Supply and Services - General .....                             | 12000-10               | 2        | -         | -                | -            | 1        | 3      |
| Health - General .....                                          | 13000-10               | 1        | 1         | 4                | 3            | 6        | 15     |
| - Psychiatric Services Branch .....                             | 13000-20               | -        | -         | 1                | -            | 1        | 2      |
| - Saskatchewan Aids to Independent<br>Living .....              | 13000-30               | 3        | -         | -                | -            | -        | 3      |
| - Saskatchewan Dental Plan .....                                | 13000-50               | -        | -         | 1                | -            | -        | 1      |
| - Saskatchewan Hospital Services<br>Plan .....                  | 13000-60               | 1        | 1         | -                | -            | 2        | 4      |
| - Saskatchewan Prescription Drug<br>Plan .....                  | 13000-70               | -        | -         | -                | -            | 2        | 2      |
| - Continuing Care Division .....                                | 13000-80               | -        | -         | 1                | 2            | 3        | 6      |

|                                                      |          |    |    |    |   |   |     |     |     |
|------------------------------------------------------|----------|----|----|----|---|---|-----|-----|-----|
| Alcoholism Commission .....                          | 13010-CJ | -  | -  | -  | - | - | 1   | 1   | 1   |
| Saskatchewan Medical Care Insurance Commission ..... | 13020-00 | 1  | -  | 2  | - | - | 1   | 1   | 4   |
| South Saskatchewan Hospital Centre .....             | 13040-00 | 1  | -  | 1  | - | - | 2   | 2   | 6   |
| Highways and Transportation — General .....          | 14000-10 | -  | -  | -  | - | - | 1   | 3   | 4   |
| Highway Traffic Board .....                          | 14010-10 | 2  | -  | 5  | - | - | 13  | 20  | 20  |
| Labour — Labour Services Division .....              | 16000-40 | 3  | 7  | 10 | 2 | - | 15  | 37  | 37  |
| — Occupational Health and Safety Division .....      | 16000-50 | -  | -  | -  | - | - | 1   | 2   | 2   |
| — Safety Services Branch .....                       | 16000-60 | -  | -  | 1  | - | - | 1   | 2   | 3   |
| Labour Relations Board .....                         | 16010-00 | -  | -  | 1  | - | - | 2   | 2   | 3   |
| Workers' Compensation Board .....                    | 16030-10 | 12 | 14 | 26 | 1 | - | 139 | 192 | 192 |
| Liquor Board .....                                   | 16040-00 | -  | -  | 1  | - | - | -   | -   | 1   |
| Liquor Licensing Commission .....                    | 16050-00 | -  | -  | 1  | - | - | -   | -   | 2   |
| Potash Corporation of Saskatchewan .....             | 17030-00 | -  | -  | -  | - | - | 1   | 1   | 1   |
| Saskatchewan Oil and Gas Corporation .....           | 17060-00 | -  | -  | -  | - | - | 1   | 1   | 1   |
| Rural Development — General .....                    | 18000-10 | -  | -  | 2  | 1 | - | 3   | 6   | 6   |
| Local Government Board .....                         | 18030-00 | -  | -  | -  | - | - | 2   | 2   | 2   |
| Provincial Planning Appeal Board .....               | 18040-00 | -  | -  | -  | - | - | -   | 1   | 1   |
| Saskatchewan Assessment Appeal Board .....           | 18060-00 | -  | 1  | 3  | 1 | - | 3   | 8   | 8   |
| Municipal Water Assistance Board .....               | 18080-00 | -  | -  | 1  | - | - | -   | 1   | 1   |
| Municipal Employees Superannuation .....             | 18090-00 | -  | -  | 1  | - | - | -   | 1   | 1   |
| Saskatchewan Housing Corporation .....               | 18100-00 | 3  | 9  | 9  | 2 | - | 10  | 33  | 33  |
| Municipal Housing Authorities .....                  | 18200-00 | 3  | 1  | 2  | - | - | 2   | 8   | 8   |
| Urban Affairs — General .....                        | 18300-10 | 1  | -  | 2  | 1 | - | 1   | 5   | 5   |
| — Property Improvement Grant .....                   | 18300-20 | -  | 1  | 1  | - | - | 2   | 4   | 4   |
| Parks and Renewable Resources .....                  | 22000-10 | 1  | 2  | 11 | 3 | - | 12  | 29  | 29  |
| Tourism and Small Business .....                     | 22030-00 | -  | 1  | -  | - | - | -   | 1   | 1   |
| Social Services — General .....                      | 23000-10 | 2  | -  | 4  | - | - | 2   | 8   | 8   |
| — Community and Personal Services ..                 | 23000-20 | 3  | 3  | 3  | 1 | - | 2   | 12  | 12  |
| — Regional Services Division .....                   | 23000-40 | 45 | 12 | 34 | 8 | - | 209 | 308 | 308 |

| Department - Agency<br>Board and Commission              | Department<br>Code No. | Resolved | Rectified | Not<br>Sustained | No<br>Juris. | Discont. | Totals |
|----------------------------------------------------------|------------------------|----------|-----------|------------------|--------------|----------|--------|
| Social Services Appeal Board (Provincial)                | 23020-00               | —        | 2         | 8                | 1            | —        | 11     |
| Public Service Commission — General . . .                | 24000-10               | —        | —         | 4                | —            | 2        | 6      |
| Public Service Superannuation Board . . .                | 24010-00               | —        | —         | 1                | —            | —        | 1      |
| Public Employees Benefits Agency . . . . .               | 24020-00               | —        | —         | 1                | —            | 1        | 2      |
| Sask Tel — General . . . . .                             | 25000-10               | 27       | 5         | 12               | 1            | 48       | 93     |
| Saskatchewan Government Insurance —<br>General . . . . . | 26000-10               | 4        | 1         | 16               | 1            | 20       | 42     |
| — Motor Licensing Division . . . . .                     | 26000-20               | 2        | —         | 4                | —            | 10       | 16     |
| — Claims General . . . . .                               | 26000-30               | 34       | 7         | 47               | 7            | 127      | 222    |
| Saskatchewan Power Corporation . . . . .                 | 27000-10               | 21       | 6         | 12               | 1            | 29       | 69     |
|                                                          |                        | 212      | 102       | 355              | 59           | 827      | 1,555  |

**SUMMARY OF COMPLAINTS CLOSED AGAINST  
SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1984**

|           | Resolved | Rectified | Not<br>Substan-<br>tiated | No<br>Juris-<br>diction | Discon-<br>tinued | Total |
|-----------|----------|-----------|---------------------------|-------------------------|-------------------|-------|
| 1973..... | —        | 1         | —                         | —                       | —                 | 1     |
| 1977..... | —        | —         | —                         | —                       | 5                 | 5     |
| 1978..... | —        | —         | —                         | 4                       | 6                 | 10    |
| 1979..... | —        | —         | 5                         | —                       | 7                 | 12    |
| 1980..... | —        | 4         | 9                         | —                       | 8                 | 21    |
| 1981..... | 1        | 3         | 15                        | 3                       | 4                 | 26    |
| 1982..... | 2        | 5         | 26                        | —                       | 5                 | 38    |
| 1983..... | 9        | 47        | 109                       | 5                       | 18                | 188   |
| 1984..... | 180      | 53        | 187                       | 89                      | 458               | 967   |
|           | 192      | 113       | 351                       | 101                     | 511               | 1,268 |

**SUMMARY OF COMPLAINTS CLOSED AGAINST  
SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1985**

|           | Resolved | Rectified | Not<br>Substan-<br>tiated | No<br>Juris-<br>diction | Discon-<br>tinued | Total |
|-----------|----------|-----------|---------------------------|-------------------------|-------------------|-------|
| 1978..... | —        | —         | 4                         | —                       | —                 | 4     |
| 1979..... | —        | —         | 3                         | —                       | 1                 | 4     |
| 1980..... | —        | 1         | —                         | —                       | 1                 | 2     |
| 1981..... | —        | 3         | 2                         | —                       | —                 | 5     |
| 1982..... | —        | 4         | 1                         | —                       | 2                 | 7     |
| 1983..... | 1        | 12        | 11                        | —                       | 3                 | 27    |
| 1984..... | 12       | 49        | 175                       | 4                       | 22                | 262   |
| 1985..... | 199      | 33        | 159                       | 55                      | 798               | 1,244 |
|           | 212      | 102       | 355                       | 59                      | 827               | 1,555 |





## CHAPTER O-4.

An Act to provide for the appointment of a Person to Investigate Administrative decisions or acts of Departments of the Government and certain other Organizations and to define the Person's duties, functions and powers.

Short title

1. This Act may be cited as *The Ombudsman Act*.

Interpretation

2. In this Act:

"agency of the government"

(a) "agency of the government" means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(i) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

"department"

(b) "department" means a department or branch of the executive government of the province;

"minister"

(c) "minister" means a member of the Executive Council. 1972, c. 87, s. 2.

Appointment

3.—(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

(2) The person appointed as Ombudsman shall be a Canadian citizen and, subject to section 5, he shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

(3) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for a term of five years from the date of his appointment and may be reappointed for one additional term of five years.

## OMBUDSMAN

(4) The Ombudsman may at any time resign his office by writing addressed to the Speaker of the Assembly or to the President of the Executive Council if there is no Speaker or if the Speaker is absent from the province. 1972, c. 87, s. 3.

Removal or  
suspension

4. The Lieutenant Governor in Council on a resolution of the Assembly shall remove the Ombudsman from his office or suspend him according to the resolution. 1972, c. 87, s. 4.

Suspension  
when Legis-  
lature not in  
session

5.—(1) When the Legislature is not in session the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue beyond the end of the next ensuing session of the Legislature.

(2) Where the office of Ombudsman is vacant or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until a person is appointed as Ombudsman under section 3 or the suspension has been dealt with by the Assembly. 1972, c. 87, s. 5.

Salary

6.—(1) The Ombudsman shall be paid:

(a) a salary equal to the salary fixed from time to time by the Lieutenant Governor in Council pursuant to subsection 5(1) of *The Provincial Court Act* to be paid to a judge of the Provincial Court of Saskatchewan; and

(b) an allowance for travelling and other expenses incurred by him in the performance of his duties that may be approved by the Lieutenant Governor in Council.

(2) Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose. 1972, c. 87, s. 6; 1973-74, c. 74, s. 1; 1974-75, c. 32, ss. 2, 3; 1976, c. 41, s. 1; 1976-77, c. 54, s. 1; 1978, c. 40, s. 1; 1979, c. 49, s. 2.

Application  
of certain  
Acts to  
Ombudsman  
and staff

7.—(1) The Ombudsman is not subject to *The Public Service Act*, except section 54 thereof, and he is subject to *The Public Service Superannuation Act*.

(2) The staff for the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act.

(3) *The Public Service Act* and *The Public Service Superannuation Act* apply to the members of the staff of the Ombudsman. 1972, c. 87, s. 7.

## OMBUDSMAN

Oath of office      8. The Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Speaker of the Assembly or the Clerk of the Legislative Assembly the following oath:

### OATH OF OFFICE.

"I, \_\_\_\_\_, do swear that I will faithfully and impartially perform and discharge the duties and functions of Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 8.

Same      9. Every member of the staff of the Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Ombudsman the following oath:

### OATH OF OFFICE.

"I, \_\_\_\_\_, do swear that I will faithfully and impartially perform and discharge the duties and functions of my office as an employee of the Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 9.

Secrecy      10.—(1) The Ombudsman and every member of his staff shall maintain secrecy in respect of all matters that come to his knowledge in the exercise of his powers and the carrying out of his duties and functions under this Act.

(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matter that he considers necessary to disclose in order to establish grounds for his conclusions and recommendations. 1972, c. 87, s. 10.

Delegation of powers      11.—(1) With the prior approval of the Lieutenant Governor in Council the Ombudsman may, by writing under his hand, delegate to any member of his staff any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) A delegation may be made to a specified person of the staff of the Ombudsman or to the holder for the time being of a specified office or to the holders of offices of a specified class of the staff.

## OMBUDSMAN

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Ombudsman.

(4) A delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit and may be made either generally or in relation to a particular case or class of cases.

(5) Until a delegation is revoked, it continues in force according to its tenor and where the Ombudsman who made the delegation ceases to hold office the delegation shall continue to have effect as if it was made by his successor.

(6) Where the Ombudsman has delegated a power under this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his authority to exercise the power. 1972, c. 87, s. 11.

Powers,  
functions and  
duties

**12.—**(1) It is the duty of the Ombudsman and he has power to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

(3) A committee of the Assembly may at any time refer to the Ombudsman for investigation and report any petition or matter that is before the committee for consideration and the Ombudsman shall:

(a) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(b) make such report to the committee as he thinks fit.

(4) The Lieutenant Governor in Council may at any time refer to the Ombudsman for investigation and report any matter relating to the administration in or by any department or agency of the government or by any officer, employee or member thereof and the Ombudsman shall:

## OMBUDSMAN

- (a) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and
- (b) make such report to the Lieutenant Governor in Council as he thinks fit. 1972, c. 87, s. 12.

Complaints  
to Ombuds-  
man

**13.—**(1) Every complaint to the Ombudsman shall be made by a person who is, or who before the date of the event that gave rise to the complaint was, a resident of Saskatchewan.

(2) A complaint under this Act may be made in respect of any matter that arises after this Act comes into force or that arose within the twelve months immediately preceding the coming into force of this Act.

(3) No complaint shall be investigated by the Ombudsman unless the complaint was made within twelve months after the event that gave rise to the complaint occurred.

(4) Notwithstanding subsection (3), if the Ombudsman for special reasons to be certified by him concludes that a complaint should be investigated, he may investigate the complaint regardless of when the event that gave rise to the complaint occurred. 1972, c. 87, s. 13.

Ombudsman  
not restricted  
by provisions  
of other Acts

**14.** The Ombudsman may exercise his powers and shall carry out his duties and functions under this Act notwithstanding anything in any other Act which provides:

- (a) that any decision, recommendation, act or omission that he is investigating is final or that no appeal lies in respect thereof; or
- (b) that no proceeding or decision of the department, agency of the government, officer, employee or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called into question. 1972, c. 87, s. 14.

Restrictions  
on jurisdic-  
tion

**15.—**(1) Nothing in this Act authorizes the Ombudsman to investigate:

- (a) any decision, recommendation, act, order or omission of the Assembly, a committee of the Assembly, the Lieutenant Governor in Council, the Executive Council or a member or committee of the Executive Council;
- (b) any decision, order or omission of a court, a judge of a court, a referee or local master of a court, a magistrate or a

#### OMBUDSMAN

justice of the peace made or given in any action or proceeding in the court or before the judge, referee, local master, magistrate or justice of the peace;

- (c) any award, decision, recommendation or omission of an arbitrator, or board of arbitrators, established by or under any Act;
- (d) any decision, recommendation, act or omission in respect of which there is under an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or under an Act, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the court or tribunal, but in that case the investigation shall not commence until after the time for the exercise of that right to appeal, object or apply has expired;
- (e) any decision, recommendation, act or omission of any person acting as solicitor or counsel for the Crown in relation to any proceedings;
- (f) any decision, recommendation, act or omission of a deputy minister, an acting deputy minister, associate deputy minister or assistant deputy minister when acting as such or of any person who by virtue of his appointment or actual employment is expressly or by necessary implication directly responsible to a minister;
- (g) any decision, recommendation, act, order or omission of any department or agency of the government, or an officer, employee or person, in relation to any matter arising between the department, agency, officer, employee or person, and the government of another province or the Government of Canada or a municipality or school board.

(2) Where a dispute arises as to whether a person mentioned in clause (f) of subsection (1) is a person who by virtue of his appointment or actual employment is expressly or by necessary implication responsible to a minister, the dispute shall be referred to and be determined by the Attorney General and the decision of the Attorney General is final. 1972, c. 87, s. 15.

Question of  
jurisdiction  
to investigate

16.—(1) Where any question arises respecting the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench or a judge of the

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court sitting in chambers for a declaratory order determining the question.

(2) Notice of an application under subsection (1) shall be served upon the Attorney General not less than fifteen days before the date on which the application is to be heard. 1972, c. 87, s. 16.

Certain correspondence with Ombudsman privileged

17. Notwithstanding any Act, where a letter written by a person in custody on a charge for an offence or after conviction for an offence, or by an inmate of a hospital, mental hospital, facility or institution operated by or under the direction of the government, or by any person in custody of another person for any reason, is addressed to the Ombudsman, it shall be forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer of the letter is detained or in which he is an inmate or by the person having custody of the writer. 1972, c. 87, s. 17.

Refusal to investigate

18.—(1) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate a complaint if:

- (a) it relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than a year before the complaint is received by the Ombudsman;
- (b) in his opinion it is frivolous, vexatious, not made in good faith or concerns a trivial matter;
- (c) in his opinion upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued;
- (d) in his opinion the circumstances of the case do not warrant investigation;
- (e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- (f) during the course of an investigation it appears to him:
  - (i) that under the law or existing administrative practices the complainant has adequate remedy or right of appeal, other than a petition to the Legislature, whether or not the complainant has availed himself of it; or
  - (ii) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 18.

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Notice of  
cessation  
etc. of  
investigation

19. Where the Ombudsman decides not to investigate, or to cease to investigate, a complaint, he shall inform the complainant of his decision and may, if he thinks fit, state his reasons therefor. 1972, c. 87, s. 19.

Notice of  
investigation

20.—(1) Before investigating any matter under this Act the Ombudsman shall notify the deputy minister of the department or the administrative or executive head of the agency of the government affected, as the case may be, of his intention to make the investigation.

(2) The notice shall be in writing and shall set forth the nature of the complaint, if any, received by the Ombudsman.

(3) The Ombudsman may in his discretion at any time during or after an investigation consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister in charge of the department or agency of the government or in any case where an investigation relates to any recommendation made to a minister, the Ombudsman shall consult the minister after making the investigation and before forming a final opinion of any matter referred to in subsections (1) and (2) of section 24.

(5) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any department or agency of the government, he shall refer the matter to the minister in charge of the department or agency of the government, as the case may require. 1972, c. 87, s. 20.

Conduct of  
investigation

21.—(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hold hearings and hear or obtain information from any person he thinks fit and may make such inquiries as he thinks necessary.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman but if at any time it appears to the Ombudsman that there are sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government or person, he shall give to that department, agency or person an opportunity to make representations in respect of the matter and the department, agency or person may make representations in respect of the matter by counsel. 1972, c. 87, s. 21.

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Ombudsman  
may require  
information  
and examine  
persons

22.—(1) Subject to section 23, the Ombudsman may require any person, other than a minister or a person mentioned in clause (f) of subsection (1) of section 15, who in his opinion is able to give any information relating to any matter being investigated by him:

- (a) to furnish information to him; and
- (b) to produce any document or thing that, in his opinion, relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

(2) The Ombudsman may summon before him and examine under oath:

- (a) any person, other than a minister or a person mentioned in clause (f) of section 15, who is an officer, employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;
- (b) any complainant; and
- (c) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

and for that purpose may administer an oath.

(3) Every examination by the Ombudsman under subsection (2) shall be deemed a judicial proceeding for the purposes of section 120 of the *Criminal Code*.

(4) Subject to section 23:

- (a) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman;
- (b) no provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman and no person who is required by the Ombudsman to furnish any information or to produce any document, paper or thing or who is summoned by the

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Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of such a provision.

(5) Except on the trial of a person for perjury, no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Ombudsman is admissible in evidence against any person in any court, at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be prosecuted for an offence against any Act by reason of his compliance with any requirement of the Ombudsman under this section. 1972, c. 87, s. 22.

Disclosure  
restricted

23. Where the Attorney General certifies to the Ombudsman that the giving of any information, the answering of any question or the production of any document, paper or writing might involve the disclosure of:

- (a) the deliberations of the Executive Council; or
- (b) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or writing to be produced, as the case may be, but shall report the receipt of the certificate in his next annual report. 1972, c. 87, s. 23.

Report on  
investigation

24.—(1) Where, after making an investigation under this Act, the Ombudsman is of the opinion:

- (a) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been:
  - (i) contrary to law;
  - (ii) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;
  - (iii) based in whole or in part on a mistake of law or fact; or
  - (iv) wrong;
- (b) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:
  - (i) for an improper purpose;
  - (ii) on irrelevant grounds; or

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(iii) on the taking into account of irrelevant considerations;  
or

(c) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned and may make such recommendations as he thinks fit.

(2) Without limiting the generality of subsection (1), in making a report under that subsection the Ombudsman may recommend:

(a) that a matter should be referred to the appropriate authority for further consideration;

(b) that an omission should be rectified;

(c) that a decision should be cancelled or varied;

(d) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;

(e) that any law on which a decision, recommendation, act or omission was based should be reconsidered;

(f) that reasons should be given for any decision, recommendation, act or omission; or

(g) that any other steps should be taken.

(3) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 24.

Notice of  
proposed  
steps

25.—(1) Where the Ombudsman makes a recommendation under section 24, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposed to take to give effect to his recommendations.

(2) If, within a reasonable time after a request respecting recommendations is made under this section, no action is taken that seems to the Ombudsman to be adequate or appropriate the Ombudsman after considering the comments, if any, made by or on behalf of the department or agency of the government affected may submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council and may thereafter mention the report in his next annual report to the Assembly. 1972, c. 87, s. 25.

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Review of  
Ombuds-  
man's  
decision

26.—(1) Where the Ombudsman makes a recommendation under section 24 and no action that seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any event inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. 1972, c. 87, s. 26.

Proceedings  
not subject to  
review

27. No proceeding of the Ombudsman is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be challenged, reviewed, quashed or called into question in any court. 1972, c. 87, s. 27.

Proceedings  
against  
Ombudsman  
prohibited

28.—(1) No proceedings lie against the Ombudsman or against any member of his staff for anything he may do, report or say in the course of the exercise or performance, or intended exercise or performance, of his powers, duties and functions under this Act unless it is shown that he acted in bad faith.

(2) Neither the Ombudsman nor any member of his staff shall be called in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his powers, duties and functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the court relating to an investigation by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*, any report made by the Ombudsman under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a broadcast shall be deemed to be privileged. 1972, c. 87, s. 28; 1976-77, c. 81, s. 5.

Entry of pre-  
mises

29.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 12, carry out therein any investigation within his jurisdiction.

(2) Before entering upon any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises of his intention to conduct an investigation. 1972, c. 87, s. 29.

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Report by  
Ombudsman

30.—(1) The Ombudsman shall make and submit to the Speaker of the Assembly an annual report respecting the exercise of his powers and the performance of his duties and functions under this Act, which shall be laid before the Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

(2) The Ombudsman may from time to time in the public interest or in the interest of any person, department or agency of the government publish reports relating:

- (a) generally to the exercise of his powers and the performance of his duties and functions under this Act; or
- (b) to any particular case investigated by him;

whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly. 1972, c. 87, s. 30.

Rules for  
guidance

31.—(1) The Assembly may:

- (a) of its own volition; or
- (b) upon the recommendation of the Lieutenant Governor in Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act. 1972, c. 87, s. 31.

Offences and  
penalties

32. Any person who:

- (a) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

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is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1972, c. 87, s. 32.

Attorney  
General may  
intervene

33. The Attorney General or counsel appointed by him for the purpose may at any time, without leave of the court or judge, intervene in any action or proceedings taken in any court under section 27 or 28 and no order for costs for or against the Attorney General shall be made as a result of the intervention. 1972, c. 87, s. 33.

Act to pro-  
vide addi-  
tional  
remedies

34. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure. 1972, c. 87, s. 34.